



ACKERSON KAUFFMAN FEX

ATTORNEYS, PC

WASHINGTON, DC • PALO ALTO, CA

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ADMITTED IN D.C. & MD
fex@ackersonlaw.com

February 4, 2005

Via Federal Express In Two Separate Boxes

The Honorable Vernon A. Williams

Secretary

Surface Transportation Board

1925 K Street, N.W.

Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

FEB 7 2005

Part of
Public Record



Re: Docket No. AB-6 (Sub-No. 335X) **213183**
Burlington Northern Railroad Company – Abandonment Exemption – Between
Klickitat and Goldendale, WA

and

Docket No. AB-6 (Sub-No. 346X) **213184**
Burlington Northern Railroad Company – Abandonment Exemption – in Klickitat
County, WA

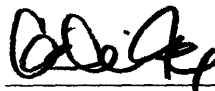
Dear Secretary Williams:

On behalf of Tracy and Lorraine Zoller, William Giersch, David and Kristen Mattson, and Allen Tooke ("Petitioners"), by counsel, attached please find one duly-executed original accompanied by eleven copies of the Petition to Re-Open AB-6, Sub. Nos. 335X & 346X, to Declare Certain Right-of-Way Segments *De Jure* Abandoned, to Declare the Remaining Right-of-Way Segment *De Facto* Abandoned, and to Revoke Authority for Trail Use Due to Loss of Federal Jurisdiction, and Exhibits in support thereof. Please note the submission is oversized and therefore is being transmitted in two FedEx boxes.

Please file appropriately and, in addition, time-stamp one copy of the petition to be returned in the self-stamped, addressed envelope. Thank you for your consideration in this matter. If you have any questions or concerns, I can be reached at the below-referenced numbers.

The Honorable Vernon A. Williams
February 4, 2005
Page 2

Respectfully submitted,



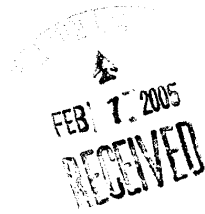
Cecilia Fex
Counsel for Petitioners

Enclosures

cc: Charles H. Montange, Esq.
Joseph Shorin, Esq.
Sarah Whitley, Esq.
City of Goldendale (Legal Dept.)



ACKERSON KAUFFMAN FEX
ATTORNEYS, PC



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-6, Sub-No. 346X & Sub-No. 335X

BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT EXEMPTION –
IN KLINKITAT COUNTY, WA (Sub-No. 346X);
and,
BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT EXEMPTION –
BETWEEN KLINKITAT AND GOLDENDALE, WA (Sub-No. 335X);

**PETITION TO RE-OPEN AB-6 SUB. NOS. 335X & 346X,
TO DECLARE CERTAIN RIGHT-OF-WAY SEGMENTS *DE JURE* ABANDONED,
TO DECLARE THE REMAINING RIGHT-OF-WAY SEGMENT *DE FACTO* ABANDONED, AND TO
REVOKE AUTHORITY FOR TRAIL USE DUE TO LOSS OF FEDERAL JURISDICTION**

Cecilia Fex
ACKERSON KAUFFMAN FEX, PC
1250 H Street, NW, Suite 850
Washington, DC 20005
Telephone: (202) 833-8833
Facsimile: (202) 833-8831
fex@ackersonlaw.com

Counsel for Petitioners

Dated: February 4, 2005

INTRODUCTION

Petitioners Tracy and Lorraine Zoller, William Giersch, David and Kristen Mattson, and Allen Tooke ("Petitioners") respectfully submit that, as explained below, pursuant to the authority granted by the Interstate Commerce Commission ("ICC"), Burlington Northern and Santa Fe Railway Company ("BNSF") has sold its interests to full-width right-of-way on two segments of a railroad line located in Klickitat County, Washington.^{1/} In so doing, BNSF lawfully consummated abandonment of the only remaining portion of the Klickitat Branch Line that connected the rest of that Branch Line to the interstate railway system. That remaining Branch Line had been "rail banked" under the Trails Act, 16 U.S.C. § 1247(d), for potential future restoration of railroad use. *Decision and Notice of Interim Trail Use in Burlington Northern Railroad Company - Abandonment Exemption - Between Klickitat and Goldendale, WA*, Docket No. AB-6 (Sub-No. 335X), *Burlington Northern Railroad Company - Abandonment Exemption - in Klickitat County, WA*, Docket No. AB-6 (Sub-No. 346X), 1994 WL 316240 (I.C.C.) (July 6, 1994) ("*July 1994 NITU*").

Accordingly, because this Branch line is now contained in one county in a single state and has not been preserved for future rail activation in conformance with federal law, Petitioners request the following: that in light of new evidence and substantially changed circumstances, the Board shall reopen STB Docket No. AB-6 (Sub-No. 346X) and AB-6 (Sub-No. 335X), declare the two segments on the Klickitat Branch Line *de jure* abandoned, declare the severed, now-intrastate right-of-way *de facto* abandoned under federal law, and revoke authority for trail-use due to the loss of federal jurisdiction on this line.

^{1/} Herein referred to as the "Klickitat Branch Line,"

Petitioners are landowners whose properties abut and are burdened by the Klickitat Branch Line. (Zoller Declaration,^{2/} Exhibit A, ¶¶ 1-5.)

I. BACKGROUND

A. THE ICC PROCEEDINGS

The Klickitat Branch Line comprises of a contiguous former railroad right-of-way that has been treated as two separate matters before the Interstate Commerce Commission ("ICC"). Those separate matters are docketed as Number AB-6 (Sub. Nos. 335X and 346X.) See *July 1994 NITU*, and record in general. Of those two segments, Sub. No. 335X is located generally to the north and east, and Sub. No. 346X to the south and west. *Id.* On January 5, 1993, BNSF filed a petition for exemption from abandonment on the southern segment (Sub. No. 346X). At that time there was already a matter pending on the northern segment (Sub. No. 335X) from an earlier petition. *Id.* By letter dated January 14, 1993, the City of Goldendale filed a request to have the ICC consolidate the two segments in the Board's proceedings and requested an extension on the 335X matter. *Id.* On May 24, 1993, the City filed a Statement of Financial Willingness to Assume Financial Responsibility on the southern segment, which was located from approximately Lyle to Klickitat, Washington.^{3/} *July 1994 NITU*.

On May 12, 1993, the ICC issued its Decision and Notice of Interim Trail Use or

^{2/} To expedite this filing, the Zoller Declaration and the Dreyer Declaration, attached, are submitted herewith as copies. Petitioners herein request leave to file the originals next week and will plan to do so unless ordered otherwise.

^{3/} Previously, on February 27, 1992, and entered March 2, 1992, the City had filed a similar statement on the northern segment which runs from Klickitat to Goldendale, Washington; later, on April 13, 1993, the Pacific NW Region of the USDA Forest Service filed a statement of financial willingness on both lines. Even later, the Rails to Trails Conservancy ("RTC") and the State of Washington indicated their interest to assume responsibility for the line.

Abandonment for the Lyle to Klickitat segment of the right of way from mile post markers -0.10 at Lyle to 13.80 (near Klickitat). Negotiations for trail use ensued between BNSF and various parties, including the RTC. *Id.*

Over a year later, after a series of extensions, and at the request from the RTC and Washington State Parks and Recreation Commission ("PRC") to vacate and reissue the notice of interim trail decisions (generally, "NITU" or "NITUs") on both segments, the ICC issued a modification of the earlier NITU and addressed the events material to its proceedings over the previous year. In so doing, it noted that the RTC and PRC had requested that the ICC consolidate the two segments into one proceeding. The RTC and PRC made the request on the basis that the two segments were contiguous. *July 1994 NITU* at n.2. The ICC denied the request, stating it was unnecessary to consolidate the proceedings because the request for relief could be accomplished without consolidating the procedures. *Id.*

According to the *July 1994 NITU*, the RTC and BNSF entered into an agreement in August 1993 for RTC to assume responsibility for interim trail use and rail banking of the two segments. RTC in turn indicated to the ICC it would transfer its rights to the PRC for assumption of responsibility with the United States Forest Service serving as a manager on the trail. For reasons not stated in the Commission's Decision, the RTC and PRC were interested in interim trail use and rail banking on only a portion of both segments and therefore requested that the ICC vacate its earlier NITUs and issue new NITUs to reflect the portions they wished to use for trails. The ICC granted this request and ruled as follows:

In Docket AB-6 (Sub-No. 335X), the NITU will be partially vacated and ***Burlington Northern will be permitted to abandon the portion of the line from milepost 30.8 to the end of the line at milepost 42.11.*** The NITU will be reissued

for the portion of the line from milepost 13.80 at Klickitat to approximately 30.8 at Warwick.

In Docket No. AB-6 (Sub-No. 346X), the NITU will be partially vacated and *Burlington Northern will be permitted to abandon the portion of the line from milepost -0.10 to approximately milepost 0.38*. The NITU will be reissued for the portion of the line from approximately milepost 0.38 at Lyle to milepost 13.80 at Klickitat.

July 1994 NITU (emphasis added). Thus, pursuant to the Commission's authorization, BNSF was permitted to abandon the northernmost point (Sub-No. 335X) and southernmost point (Sub-No. 346X) of this contiguous railroad corridor. That decision was the last action taken by the Commission (or the Board) on those two matters.

B. FACTUAL BACKGROUND

The Klickitat Branch Line originally extended from approximately Lyle to Goldendale, Washington. (See maps previously submitted to the ICC by BNSF and/or trail sponsors, attached hereto for the Board's convenience at Exhibit B.) Pursuant to the authorization to abandon the Warwick to Goldendale segment, the right-of-way on the north-east end of the Sub. No. 335X segment now dead-ends at a county road at the area of Warwick, Washington, and is surrounded by private land. (See Trummel Declaration, ¶¶ 19-27, Exhibit C; Zoller Decl., at ¶¶ 6-7.)

There is no intersecting railway line between Lyle at milepost 0.38 and Warwick at milepost 30.12 to connect the Branch Line to the interstate railway system. (See Exhibit B.)

Prior to the proceedings on Sub. No. 335X and 346X, the Klickitat Branch Line was connected to the interstate railway system in the area of Lyle and was still in the possession of BNSF. (E.g., Exhibit B.) Following the proceedings, however, BNSF began to sell off portions of its interests in the right-of-way first to the RTC for trail use, and later, in Lyle, into private

hands for non-railroad use as follows:

Recorded in the County offices was first a deed from BNSF to RTC, dated February 11, 1994, which does not appear to have been executed by the RTC. (Trummel Decl., Ex. C, Attachment 3.) That deed conveyed BNSF's interests in the right-of-way that started immediately north of Highway 14 at Lyle and ran through to the east edge of Section 24, Township 3 North, Range 14 East, near Warwick.^{4/} (Trummel Decl., Ex. C, Attachment 3.) On May 3, 1995 BNSF issued a "Correction Quit Claim Deed" – executed by both parties – that superseded the February 11, 1994, deed but that described the same beginning and end points. (Trummel Decl., Ex. C, Attachment 3.)

Subsequent to these conveyances, RTC conveyed the interests in the right-of-way to the Washington State Parks and Recreation Commission ("PRC") and PRC was to assume all liability and responsibilities for the trail. *July 1994 NITU*, at 1 (*See also*, Trummel Decl., Ex. C, at ¶ 7 and Attachments 1 - 3).

Following the above referenced sales to RTC, BNSF broke any remaining connection that had existed between the end-point at Lyle and the still-operating BNSF right-of-way that is located south of Highway 14. (*See* Parcel Number "⑧" on Attachment 1 to Exhibit C, Trummel Decl. & ¶ 17.) BNSF cleared title to Parcel Number "⑥" on November 11, 1998, by conveying a Quitclaim and Release of Interest deed to Greg Colt Land Brokers, Inc. on its former right-of-way segment which was situated on the east portion of Parcel Number ③. That parcel is situated between the existing railroad right-of-way ("③") and Highway 14 and the Trail.

^{4/} There may have been some portions of the actual right-of-way along the Klickitat Branch Line that were omitted from the description of interests conveyed. Those omissions are immaterial to the issue before the Board.

(Trummel Decl., Exhibit C, ¶¶ 5-10, 17.)

Later, by Quit Claim deed on May 29, 2003, BNSF sold any and all remaining interests that it had retained in the right-of-way, excepting mineral rights, to the Rutledge Hotel, south of Highway 14. (Trummel Decl., Exhibit C, ¶¶ 11-16.) Other parcels that are arguably situated between the Trail and the existing BNSF railroad right-of-way south of Lyle are similarly in the ownership of private parties. (Trummel Decl., Exhibit C, ¶¶ 14-16.)

Accordingly, pursuant to the authority granted in the *July 1994 NITU*, BNSF sold off and thereby abandoned the right-of-way that had been the sole, remaining connection to the interstate railway system.

Neither BNSF nor PRC has notified the STB of this disconnection of the right-of-way from the interstate railway system.^{5/}

II. DISCUSSION

A. **The Board Should Re-Open this Matter Because There Is New Evidence of Substantially Changed Circumstances That Precludes the Klickitat Branch Line from Being “Railbanked” under Federal Law.**

The Surface Transportation Board (“STB”) may reopen a matter following a final decision when new evidence has emerged or when there are substantially changed circumstances following the original decision. The STB’s authority to reopen and reconsider its prior actions derives from 49 U.S.C. § 722, which provides as follows:

The commission may, at anytime on its own initiative because of material error, new evidence, or substantially changed circumstances –

- a) reopen a proceeding

^{5/} Per Petitioners’ review of the STB electronic docket system and records reviewed in the STB file on this matter.

- b) grant rehearing, re-argument or reconsideration of an action of the Commission; and
- c) change an action of the commission.

An interested party may petition to reopen and reconsider an action of the commission under this paragraph under regulations of the commission.

§ 722. Thus, as enumerated by the statute, the STB may reopen a prior action on its own initiative or in response to an interested party's petition to do so in *any* of the three instances where there is (1) material error; (2) new evidence; *or* (3) substantially changed circumstances.^{6/} *Id.*; *Interstate Commerce Commission v. Brotherhood of Locomotive Engineers*, 482 U.S. 270, 277-78 (1987).

A petition to reopen ordinarily may be filed at any time by an interested third party, such as the landowner petitioners here. *Burlington Northern and Santa Fe Railway Company – Abandonment Exemption – In Washington, County, OR*, AB-6 (Sub. No. 383X), 2001 WL 1659570 (Dec. 21, 2001 STB).

Under these standards, evidence showing that the railroad company has sold off parts of the right of way so that it is no longer intact and part of the interstate railway system should be sufficient to satisfy the requirements under §722. *See Jost .v STB*, 194 F.3d 79 (1999) (reversing the STB decision denying landowners' petition to reopen a matter when petition stated that full-width sales had occurred to render right-of-way abandoned under federal law). As noted by the United States Court of Appeals for the District of Columbia, "the sale of full-width right-of-way would be material to the Board's decision" concerning whether there was federal jurisdiction to maintain a trail on right-of-way no longer connected to the interstate railway system. *Jost*, 194

^{6/} 49 C.F.R. § 1115.4, which is nearly identical in wording to 49 U.S.C. § 722, governs the reopening of administratively final actions by interested individuals.

F.3d at 86.

In this instance, just as in *Jost*, Petitioners here wish to submit new evidence to show that the circumstances have substantially changed since the time of the *July 1994 NITU* decision: since that time, the railroad company has consummated the authorized abandonment of a segment in the right-of-way such that the remaining Klickitat Branch Line can not be restored to interstate railway use and the line has been removed from federal jurisdiction and the jurisdiction of this Board.^{7/} *Id.* at 86-88; e.g., *Fritsch v. ICC*, 59 F.3RD 248 (DCCA 1995).

The evidence of this abandonment was not available to anyone at the time of the Commission's actions in the *July 1994 NITU* because the circumstances of the abandonment had not yet transpired. In that *July 1994 NITU*, the Commission authorized the railbanking of the two contiguous lines between mile post marker 0.38 at Lyle to 13.80 at Klickitat and from the 13.80 milepost marker at Klickitat to milepost 30.8 at Warwick. The Commission, in response to the requests submitted by BNSF and the parties proposing the railbanking of the line, also authorized the abandonment of the segment at issue here, between milepost -0.1 and 0.38. But the actual actions consummating the approved abandonment of the segment did not occur until *after* the *July 1994 NITU*. Therefore, not until long after the proceedings were final in this matter did this new evidence manifest itself.

This new evidence to support a substantial change in circumstances is precisely the type

^{7/} Petitioners will assume for the sake of this Petition that BNSF's original petition filings and subsequent agreements and negotiations for railbanking of the Klickitat Branch Line was in conformance with 16 U.S.C. § 1247(d), and that the line was therefore still connected to the interstate railway system and thereby suitable for future rail restoration pursuant to federal law in July of 1994, when the Commission issued its last decision in this matter.

contemplated by the regulations that govern the reopening of this matter.^{8/} See *Jost*, 194 F.3d at 86, *Fritsch*, 59 F.3d at 251, *Central Kansas Railway, LLC – Abandonment Exemption – In Marion and McPherson Counties, KS*, AB-406 (Sub. No. 6X) (STB, Dec. 8, 1999) (“*CKR Dec. 1999*) at 5 (holding “if at any time it is shown that there have been full-width right-of-way sales (by a railroad or a trail sponsor) that precludes the restoration of rail service, we would reopen the proceeding to reexamine our authorization of interim trail use”).

Accordingly, pursuant to the evidence presented herein and as discussed below, Petitioners request that the Board reopen the Commission’s *July 2004 NITU*, find that BNSF has *de jure* abandoned the right-of-way segments at Lyle and east of Warwick, find that BNSF has *de facto* abandoned the right-of-way for railroad use under federal law between mileposts 0.38 and 30.8, and revoke the authorization for railbanking of the subject line with a finding that this Board has lost jurisdiction over the line.

B. THE SEVERANCE OF THE KLICKITAT BRANCH LINE IS COMPLETE AND OCCURRED PURSUANT TO ICC AUTHORITY

1. The Only Connection That Remained Between the Klickitat Branch Line and the Interstate Railway System Was Severed No Later than May 29, 2003 When the Railroad Abandoned its Right-of-Way Within the 0.48 Mile Segment at Lyle.

There can be no reasonable dispute that the Klickitat Branch Line is no longer connected to the interstate railway system. The Klickitat Branch Line originated below Highway 14, just South of Lyle, where it was connected to the interstate railway on a BNSF railroad line running

^{8/} That is not to say that even if there had been a full-width abandonment prior to the issuance of the NITU that such evidence would be barred from being brought after an STB decision is final. As noted by the *Jost* court, the period in which a request for a NITU is pending is “brief” and third-parties may simply not have the time to identify and present evidence of full-width abandonment during the pendency of a NITU request. *Jost*, 194 F.3d at 84.

generally east to west. From there the Branch traced its route in a northerly and easterly direction through to Klickitat, traced a southeasterly circular route to Warwick, and extended east and north to end in Goldendale without being intersected with any other railway system. (*See, generally,* maps in STB records and Exhibit B, attached.) County maps show the right-of-way dead-ending in private property in the Warwick area. (Trummel Decl., Exhibit C, ¶¶ 20, 23-27; *see also* Attachment 1 to Zoller Decl., Exhibit A.) In 1994, therefore, the only connection that the Branch had to the interstate railway system was at its southernmost point, at Lyle. (Exhibit B.)

That connection was completely severed when BNSF conveyed Parcels ③, ④, and ⑤ into private hands. (Trummel Decl., Exhibit C, ¶¶ 10-12 .)

2. The Abandonment Within the 0.48 Segment at Lyle Was Authorized by the ICC, and Jurisdiction by the Board over That Segment Has Terminated.

The *July 1994 NITU* authorization to fully abandon the 0.48 segment at Lyle contained no reservations or contingencies that the railroad was required to notify the Commission of any abandonment of that segment. *See July 1994 NITU*. Nor was the authorization to abandon subject to 49 CFR 1152.29(e)(2) – promulgated in 1996 – which would have required the railroad to notify the Board of the consummation of abandonment. That regulation was prospective and does not apply to NITU proceedings prior to 1996. *Consolidated Rail Corp. v. STB*, 93 F.3d 793, 799 (D.C. Cir. 1996). Therefore, the *July 1994 NITU* authorizing the abandonment of the Lyle segment was complete authorization in and of itself, and to legally consummate the abandonment BNSF needed only act in a manner consistent with the intent to abandon the line. Intent of a carrier can be determined by the railroad's stated intentions as well

as the railroad's actions considered in their entirety. *Consolidated Rail*, 93 F.3d at 799.

Withholding the Lyle segment from the rail banked trail, and instead selling the right of way to private parties, is manifestly consistent with the intent to abandon that portion of the right-of-way. See *RLTD Railway Corp. v. STB*, 166 F.3d 808 (6th Cir. 1999). Therefore, when BNSF sold off the parcels that comprised the full-width right-of-way segment in Lyle, there was a *de jure* abandonment of that segment pursuant to the authorization in the *July 1994 NITU*. *Id.* at 812; *RLTD Railway Corp. – Abandonment Exemption – In Leelanau County, MI*, AB-457X, 1997 WL 671912 (STB, Oct. 30, 1997). As such, the abandonment was legitimate and authorized by law.

Once that abandonment was perfected by BNSF, the Board's jurisdiction over that segment was lost. The United Supreme Court in *Preseault v. ICC*, 494 U.S. 1, 5-6 n.3 (1990), held this maxim to apply generally to railroad right-of-way when it first addressed the constitutionality of 16 U.S.C 1247(d):

Once a carrier abandons a rail line pursuant to authority granted by the [Board], the line is no longer part of the national transportation system, and although the [Board is empowered to impose conditions on abandonments, . . . as a general proposition . . . [the Board's] jurisdiction terminates.”

See also *Consolidated Rail*, 93 F.3d at 797 (citing *Preseault*, 494 U.S. 1, 5 n. 3, *Hayfield N. R.R. Co. v. Chicago & N.W. Transp. Co.*, 467 U.S. 622, 633-34, (1984); *Fritsch v. ICC*, 59 F.3d 248, 253 (D.C. Cir.1995)) (“The ICC's jurisdiction over a rail line generally ceases once the line has been abandoned pursuant to a valid and effective abandonment certificate.”); *Iowa Power, Inc. – Construction Exemption – Council Bluffs, IA*, 8 I.C.C. 858 (Dec. 20, 1990) (“The United States Supreme Court has recognized that once a carrier abandons a line pursuant to authority granted

by the Commission, the line is no longer part of the national transportation system and Commission jurisdiction generally terminates.”) That maxim applies equally here to the segment that was abandoned pursuant to the Commission’s authorization from the *July 1994 NITU*.

C. THE SEVERED KCLICKITAT BRANCH LINE IS AN ENTIRELY INTRASTATE LINE, IS OUTSIDE OF THE STB’S JURISDICTION, AND THEREFORE THE TRAIL AUTHORIZATION MUST BE REVOKED AND THE LINE DECLARED *DE FACTO* ABANDONED UNDER FEDERAL LAW.

1. Trail Use Requests Are Rejected for Lack of Jurisdiction When the Right-of-Way Is Contained Within a Single State

“It is well settled that neither the ICC nor the Board has jurisdiction over lines that are not linked to and part of the interstate rail system.” *RLTD Railway Corp. – Abandonment Exemption – In Leelanau County, MI, AB-457X*, 1997 WL 671912 (STB, Oct. 30, 1997), Slip. op. at 5 (*RLTD 1997*); *see also RLTD Railway Corp. v. STB*, 166 F.3d at 813.

This well-settled principle has been applied by the Board when a trail use request has been made for a railroad line on which abandonment was unauthorized, but where the railroad company sold off parts of the right-of-way prior to the railroad’s efforts to take advantage of 16 U.S.C. § 1247(d) for rails-to-trails conversion. In the *RLTC Ry. Corp.* proceedings, the RLTD Railway and interested parties requested trail use on a former railroad right-of-way that had become severed from the interstate railway system. *RLTD 1997*. The then-ICC initially authorized the parties to proceed with the rail banking process but, following a hearing on a petition to reopen and revoke the authorization for a trail, the STB, in August 1996,^{9/} ruled it no longer had jurisdiction on the line. *RLTD 1997*. The decision was in part based on weighing

^{9/} On January 1, 1996, many functions of the ICC, including authority over abandonment proceedings, were transferred to the STB in the Department of Transportation. ICC Termination Act of 1995, Pub.L. No. 104-88, § 201, 109 Stat. 803, 932-34 (1995).

competing evidence and finding that the railroad company had failed to evince the intent of keeping the line active for several years. *Id.* at *3-4.

While evidence of the *de facto* abandonment of the railway line was an issue the Board addressed, the conclusive factor to the Board's determination that it no longer could assert jurisdiction over the line was the fact that it had become severed from any interstate connection:

[T]he determinative factor here – and the one that properly has been the primary focus of our analysis – is that the Leelanau Line became irrevocably severed from the national rail transportation system in 1981 when the C & O connection from Rennie's Station to Traverse City was abandoned, thus forever eliminating LTC's ability (or anyone else's) to provide rail freight service in interstate commerce on the Leelanau Line. It is well settled that neither the ICC nor the Board has jurisdiction over lines that are not linked to and part of the interstate rail system. [FN21] See, e.g., *Magner-O'Hara Scenic Ry. v. ICC*, 692 F.2d 441 (6th Cir.1982). Thus, once the Leelanau Line was severed from the interstate rail network, there was both a *de facto* and *de jure* abandonment of that line, and the ICC lost jurisdiction over the property.

RLTD 1997, at *4.

The United States Court of Appeals for the Sixth Circuit agreed with the Board's analysis. Indeed, the court noted that the Board was statutorily prevented under 49 U.S.C. §10501 from asserting jurisdiction "over completely intrastate tracks." *RLTD Railway*, 166 F.3d at 813.

The Board's decision concerning its loss of jurisdiction was unequivocal and left no room for any argument that vestiges of its jurisdiction remained. Included and rejected by the Board was the railroad company's argument that the intrastate line could theoretically be put back into interstate service by using motor vehicle transportation to reach an interstate line. *RLTD 1997*, at *5 ("It would be inappropriate for us to assert continuing jurisdiction over the property based on the mere physical possibility that an intermodal terminal could someday be constructed on it.")

As with every step of the Board's analysis, the Sixth Circuit examined the Board's finding on that issue and affirmed the Board's conclusions. *RLTD Railway*, 166 F.3d at 814 (rejecting railroad's argument that eminent domain could be exercised under state law to reconnect line to interstate service).

Thus, as carefully reasoned by the Board, and as affirmed by the Sixth Circuit, the Board loses any jurisdiction it may have had to assert jurisdiction and regulate right-of-way for rails-to-trails conversion when the right-of-way "begins and ends in a single state." *RLTD 1997* at *3.

2. The Authority for the Existing Klickitat Trail must Be Revoked Because the Connection to the Interstate Became Broken and this Board Has Lost its Jurisdiction over the Line

The Klickitat Branch Line, as established above, begins and ends in a single state – indeed, in a single county – and is disconnected from the interstate railway system. As such, just as with the right-of-way in the *RLTD Railway* matter, the Klickitat Branch Line can no longer remain within the Board's jurisdiction.

Petitioners anticipate that any opposition to this Petition will be made through an effort to distinguish this case from that of the *RLTD Railway* matter. While there are factual distinctions that may be raised, those distinctions are of no material consequence with consistent application of the law.

In the *RLTD Railway* matter, the disconnection from the interstate railway system took place before any party had requested trail use. In this matter, the disconnection occurred after the Commission authorized the abandonment of the only segment which kept the right-of-way in the interstate system. Thus, while the Klickitat Trail has been mired in controversy as well as has been in disrepair (*see* Attachment 1 to Dreyer Declaration, Exhibit D), it will be assumed for the

purposes of this analysis that it has been in place for the past some-several years. Therefore, any opposition to this Petition may raise the notion that there would be an “over-riding interests of interstate commerce” to assume jurisdiction here in order to permit trail use to continue.

First, trail proponents may argue that the severance was inadvertent rather than intentional. Inadvertent or not, however, it is incumbent upon the railroad carrier responsible for its lines, if truly interested in preserving the right-of-way for future rail restoration, to act consistently with that intent. *E.g. RLTD Railway matter*. This is especially so when, once the Board issues a Notice of Interim Trail Use or *Abandonment* Decision, the Board has in effect signaled that the subject line is no longer needed for the interstate system. *Kansas City Public Service Freight Operation – Exemption – Abandonment in Jackson County, MO*, 71 I.C.C.2nd 216, 225 (STB 1990) (quoting *Modern Handcraft*: “a certificate of abandonment [even if not exercised] is evidence in any court proceeding that the line is not required *** for rail operations.”). Certainly, BNSF as a nationwide carrier knew or should have known that the Boards’ “chief concern, once a trail use condition has been imposed, is whether the statutory rail banking condition has been compromised, precluding a railroad’s ability to reassert control over the right-of-way at some future time to revive rail service.” *CKR Dec. 1999*, at ____.

Therefore, carriers must be required to act consistently with the purpose of the Trails Act under 16 U.S.C. §1247(d), which is to “preserve established rights-of-way for future reactivation of rail service.” *Id.*; *Chicago and North Western Transp. Co. – Abandonment Exemption – Guthrie and Dallas Counties*, Slip. Op. Docket No. AB-1 (Sub-No. 192X) (STB, July 1, 1996) (“The intent of section 1247(d) is to preserve established railroad rights-of-way for future reactivation for rail service while allowing their use as trails in the interim.”) But if the railroad

carrier – or even the Commission – somehow overlooks the consequence of consummating the authorized abandonment of the sole connection to the interstate system, such mistakes should not be an excuse for reversing the “well settled” law concerning disconnected fragments of right-of-way. See *Consolidated Rail Corp. v. STB*, 93 F.3d 793 (D.C. Cir. 1996) (“the power to correct inadvertent ministerial errors may not be used as a guise for changing previous decisions . . .”) (citing *American Trucking Ass’n, Inc. v. Frisco Transp. Co.*, 358 U.S. 133, 146 (1958)).

The fact is that BNSF “took actions . . . that were inconsistent with continued federal jurisdiction over the track.” See *RLTD 1997*, at *3. Methodically piece by piece, it sold off any connection that still remained in the Klickitat Branch Line to the interstate system. (Trummel Decl., Exhibit C, ¶¶ 10-16.) As such, the determinative factor here, as it was for the Board in *RLTD 1997*, should be that the Branch Line became “irrevocably severed from the national rail transportation system.” *RLTD 1997*, at *4.

Moreover, to the extent that there would be temptation to find differences in this situation because of a purportedly “established” trail on the disconnected fragment of right-of-way, any such argument would fail to overcome the overriding principles that guided the Board and the Sixth Circuit in the *RLTD Railway* matter. Both tribunals stressed the importance of drawing a bright line for the Board’s jurisdiction. The Board’s position – “neither the ICC nor the Board has jurisdiction over lines that are not linked to and part of the interstate rail system” – was unequivocal.

The underpinnings for the Board’s jurisdiction on “rails-to-trails” underscores the application of that principle. The sole reason for the Board’s ability to administer rights-of-way under the Trails Act is because congress enacted the relevant provisions pursuant to the

Commerce Clause governing *interstate* commerce. *E.g.*, *Preseault v. ICC*, 494 U.S. 1 (1990) (ruling Trails Act constitutional pursuant to the Commerce Clause). This means, of course, that the relationship to interstate commerce needs to be something more than speculative or desirable in order for the Board to assert jurisdiction over the subject matter. To be sure, there are occasions when the Board may reach into regulating intrastate matters, but those occasions have been confined to instances where it was necessary to protect ongoing *interstate* commerce from the negative impact of overreaching *intrastate* laws. *E.g.*, *Colorado v. United States*, 271 U.S. 153, 162 (1926) (finding the Commission had the power to prevent or regulate unjust or disparate treatment of carries – or authorize intrastate abandonment – if the circumstances otherwise directly and negatively impacted ongoing interstate commerce due to a financial drain on commerce, or other, similar impact.) Ordinarily, however, when the right-of-way is located strictly within one state, that right-of-way is outside of the Commission's or Board's jurisdiction. *Gulf, C. & S. F. Ry. Co. v. Texas*, 204 U.S. 403 (1907); *ICC v. Brimson*, 154 U.S. 447 (1894); *See also, Sullivan v. Minneapolis & R.R. Ry. Co.*, 142 N.W. 3 (Minn. 1913); *Chesapeake & O. Ry. Co. v. Maysville Brick Co.*, 116 S.W. 1183 (Ky. 1909).

Here, it cannot reasonably be said that failure of the STB to assert jurisdiction over the fragmented, intra-county right-of-way would result in a financial drain or any other burden on interstate commerce. To the contrary, the Klickitat Branch Line as a recreational trail has no bearing whatsoever on interstate commerce. Moreover, the severance of the line as a realistic matter could not be said to deprive the system of a potential future asset. The fact is, the fragmented line is in utter disrepair and restoring the line to railroad use would, as of 1996, have taken over nine million dollars. (*See* Attachment 1 to Dreyer Decl., Exhibit D.) Given the purely

rural use of this right-of-way (*see generally*, STB docket), it is inconceivable that any railroad would undertake restoration of the line and invest in 2005 dollars (or later), presumably millions of dollars more than the nine million dollars it would have taken in 1996.

Accordingly, the Board should reject any arguments presented by proponents of this trail that the Trails Act has somehow broadened its powers to claim jurisdiction on a disconnected right-of-way. *See RLTD*, 166 F.3d at 813 (rejecting the trail proponent's argument that the Trails Act broadens the Board's jurisdiction). As noted by the Sixth Circuit,

As to petitioners' argument that the Trails Act anticipates that the STB will retain jurisdiction over intrastate segments, the Trails Act is based upon the idea that the "interim use" of the tracks "is subject to restoration or reconstruction for railroad purposes." In other words, the railbanking entities hold the railroad right-of-way in such a manner that the corridor may be returned to the interstate system in the future. Here, the Leelanau Line is not presently part of the interstate rail system. Giving due deference to the STB's interpretation of its empowering statute, we cannot say that the STB erred in its judgment that it loses jurisdiction over a line once it becomes severed from the interstate rail system so that it may not issue a trail condition.

Id. at 814.

The only true material distinction between the *RLTD Railway* matter and the one at hand is that the Commission *did* authorize the abandonment of the Lyle segment in the *July 1994 NITU* – an authorization which culminated in the disconnection of the interstate system. That distinction affords Petitioners a *stronger* position here as compared with the *RLTD* landowners inasmuch as the Board need not weigh the question of *whether* the connecting segment was truly abandoned. Clearly it was. Therefore, there should be no reason to take the extraordinary step of reversing or qualifying the Board's earlier reasoning and conclusions in the *RLTD Railway* decisions.

To the contrary, if the STB were to now assert jurisdiction on the severed line without

according the railroad's abandonment action its legally prescribed effect – to render the intra-county line *de facto* abandoned and removed from federal jurisdiction – there would be no bar to railroad companies hereafter permitting and causing the fragmenting of lines across the country so that all jurisdictional constraints under 49 U.S.C. § 10501 would be rendered meaningless. As cautioned by the Board itself, “[i]f we were to assert jurisdiction [on an intrastate segment] . . . there could never be any single-state segments that would not be subject to our jurisdiction, and the [statutory] jurisdictional limitations . . . would be rendered a nullity.” *RLTD 1997*, at *5, n.22 (rejecting arguments that the absence of an interstate connection could be mitigated by employing motor vehicle transportation to reach an interstate line).

CONCLUSION

For the foregoing reasons, Petitioners request that the STB reopen the matter of STB Docket AB-6, Sub-Nos. 346X and 335X, find that the right-of-way segments at milepost markers -0.10 to 0.38 and milepost markers 30.8 to 42.11 were *de jure* abandoned by the railroad pursuant to the *July 1994 NITU*, that the remaining right-of-way subject to that *July 1994 NITU* was *de facto* abandoned for railroad use under federal law when it became severed from the interstate railway system, that therefore the authority to maintain the right-of-way as a trail under federal law was terminated due to the loss of the Board's jurisdiction over the right-of-way.

Respectfully submitted this 4th day of February, 2005,

By: ACKERSON KAUFFMAN FEX, PC

A handwritten signature in black ink, appearing to read 'Cecilia Fex', written over a horizontal line.

Cecilia Fex

ACKERSON KAUFFMAN FEX, PC
1250 H Street, NW, Suite 850
Washington, DC 20005
Office: (202) 833-8833
Fax: (202) 833-8831
fex@ackersonlaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Petition to Re-Open AB-6 Sub. Nos. 335X & 346X, to Declare Certain Right-of-Way Segments De Jure Abandoned, To Declare the Remaining Right-of-Way Segment De Facto Abandoned, And to Revoke Authority for Trail Use Due to Loss of Federal Jurisdiction was served upon the following by U.S. Mail, First Class, postage prepaid this 4th day of February 2005:

Charles H. Montange, Esq.
426 NW 162nd St
Seattle, WA 98177
c.montange@verizon.net

Counsel for Rails to Trails Conservancy


Joseph Shorin, Esq.
Assistant Attorney General
Office of the Attorney General
P.O. Box 40100
Olympia, WA 98504-0100

Counsel for Washington State Parks and
Recreation Commission

Sarah Whitley, Esq.
Law Department
Burlington Northern Santa Fe Corporation
3800 Continental Plaza
777 Main St.
Fort Worth, TX 76102-5384

Counsel for Burlington Northern Santa Fe
Corporation

City of Goldendale
Legal Department/Planning Department
P.O. Box 69
1103 South Columbus
Goldendale, WA 98620



Cecilia Fex

FEB 7 2005
RECEIVED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-6, Sub-No. 346X & Sub-No. 335X

BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT EXEMPTION –
IN KLINKITAT COUNTY, WA (Sub-No. 346X);
and,
BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT EXEMPTION –
BETWEEN KLINKITAT AND GOLDENDALE, WA (Sub-No. 335X);

**PETITION TO RE-OPEN AB-6 SUB. NOS. 335X & 346X,
TO DECLARE CERTAIN RIGHT-OF-WAY SEGMENTS *DE JURE* ABANDONED,
TO DECLARE THE REMAINING RIGHT-OF-WAY SEGMENT *DE FACTO* ABANDONED, AND TO
REVOKE AUTHORITY FOR TRAIL USE DUE TO LOSS OF FEDERAL JURISDICTION**

EXHIBITS A - D

EXHIBIT A

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB-6; SUB. NOS. 346X & 335X

**BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT EXEMPTION –
IN KLIKITAT COUNTY, WA, (Sub-No. 346X)
and,
BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT EXEMPTION –
BETWEEN KLIKITAT AND GOLDENDALE, WA,
(Sub-No. 335X)**

**DECLARATION OF LORI ZOLLER IN SUPPORT OF PETITION
TO RE-OPEN AB-6 SUB. NOS. 335X & 346X**

I, Lori Zoller, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am of lawful age, and am qualified and authorized to file this Declaration, Executed on February 3, 2005.

1. I and my husband Tracy Zoller are the owners of property in Klickitat County, Washington.
2. My property is burdened by the former Burlington Northern and Santa Fe Railway Company – referred to in the Petition as the “Klickitat Branch Line” – that extends from Lyle, Washington, through Klickitat, and onward to Warwick, Washington. My property is located approximately nine miles north of Lyle and approximately four or five miles south of Klickitat.
3. I am familiar with the properties owned by the other Petitioners in this matter. Mr. Giersch and Mr. Tooke own property just south of my

property.

4. Mr. Giersch, Mr. Tooke, and my husband and I own property that are burdened by the right-of-way that is subject to Docket No. AB-6 (Sub. No. 346X).
5. The Mattsons own property just south of Warwick. Their property is burdened by the right-of-way that is subject to Docket No. AB-6 (Sub. No. 335X).
6. As to the right-of-way subject to Sub. No. 335X, the furthest point at which the Klickitat Branch Line right-of-way might be located is where it dead-ends at and to the east of Uecker Road near Warwick. There is no physical presence of the right-of-way remaining to the west of that road. In addition, to the east of Uecker Road, the former right-of-way appears to have been farmed over and the former railroad right-of-way between the end-point of the Klickitat Trail to Uecker Road is no longer physically there.
7. Attachment 1 hereto is a true and correct copy of an order pertaining to a quiet title action that concerns the properties located at and around the area in which this right-of-way dead-ends.
8. With respect to ¶ 9, below, as to the location and end point of the Branch Line at Lyle, I am very familiar with the tax county records showing where the trail ends, the quit claim deed obtained by the Rails-to-Trails Conservancy from BNSF for the right-of-way, and the physical area in Lyle

where the trail ends.

9. The portion of the Klickitat Branch Line that was conveyed for trail use stops at the north side of Highway 14 in Lyle. The tracks that previously crossed Highway 14 have been removed and have been paved over.


Lori Zoller

ATTACHMENT 1

FILED

FEB 07 2000

SAUNDRA OLSON, Clerk
Klickitat County

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KICKITAT

PATRICIA WOODS, et al)
Plaintiffs,)
vs.)
BURLINGTON NORTHERN and SANTA)
FEE RAILWAY COMPANY, a)
corporation,)
Defendant.)

No. 97-2-00241-4

ORDER QUIETING TITLE

This matter having come on regularly for hearing upon the joint motion of the parties and the court having considered the records and files herein and now adopting and approving the stipulation of the parties on file herein and now deeming itself to be fully advised in these premises it is hereby

ORDERED, ADJUDGED AND DECREED that the parties plaintiff below named are hereby, each and several, quieted in their respective title's to those certain parcels of real property below described, being strips of land 60 feet in width and hereafter referred to as "the right-of-way", free and clear of any claim of right, title or interest on the part of the defendant, said parcels of real property lying and being in Klickitat County, State of Washington and each more particularly described as follows:

Order Quieting Title Page 1

Phibow and Hanson

ATTORNEYS AT LAW
117 East Main Street
Goldendale, WA 98620
Tel. (509) 773-4988
Fax. (509) 773-3143

Exhibit A
Attachment 1 - Page 1 of 4

1 1. Raymond Mattson:

2 The Northerly half of the right-of-way located over and across all of
3 Section 19, Township 3 North, Range 15 East, W. M.

4
5 2. John D. Miller; Mary Ann Miller; James H. Miller; and Donava H.
6 Miller:

7 All of the right-of-way located over and across the Northeast
8 quarter of Section 20, Township 3 North, Range 15 East, W. M.

9
10 3. Stephen Rex Miller:

11 All of the right-of-way located over and across the Northeast
12 quarter of Section 16, Township 3 North, Range 15 East, W. M.; and
13 All of the right-of-way located over and across the Southeast
14 quarter of the Southeast quarter of Section 10, Township 3 North,
15 Range 15 East, W. M.; except portions thereof lying within the Plat of
16 Centerville, if any.

17 4. Mike Woods & Cheryl Woods:

18 All of the right-of-way located over and across the Northwest
19 quarter of Section 15, Township 3 North, Range 15 East, W. M.;

20
21 5. D. H. Cameron; Dale Cameron & Bruce Cameron:

22 All of the right-of-way located over and across Section 11, Township
23 3 North, Range 15 East, W. M.; except portions thereof lying within
24 the Plat of Centerville.

25 6. Corinne M. Linden:

26 All of the right-of-way located over and across the South half of
27 Section 1, and the East half of the Northwest quarter of Section 12,
28 all in Township 3 North, Range 15 East, W. M.

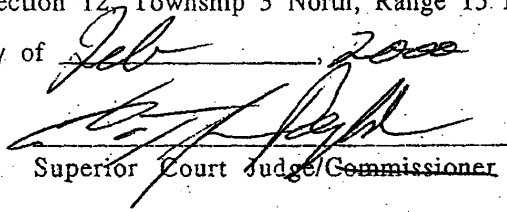
29 7. Patricia Gow:

30 All of the right-of-way located over and across the South half of the
31 Northwest quarter and the Northwest quarter of the Southwest
32 quarter of Section 6, Township 3 North, Range 16 East, W. M.

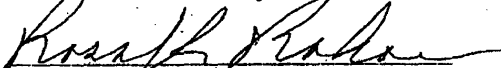
1
2
3 15. Nate Kayser and Jacki Kayser, his wife:

4 All of the right-of-way located over and across the West Half of the
5 Northwest quarter of Section 12, Township 3 North, Range 15 East, W. M.

6 Dated this 7th day of Feb, 2000

7
8
9 
10 Superior Court Judge/Commissioner

11
12 Presented upon Stipulation of the Parties
13 for Immediate Entry Without Further Notice

14 

15 Ross R. Rakow #4879
16 Of Attorneys for Plaintiffs

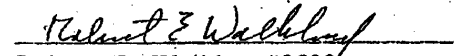
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20 Robert E. Walkley #3589
21 Of Attorneys for Defendants BNSF
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EXHIBIT B

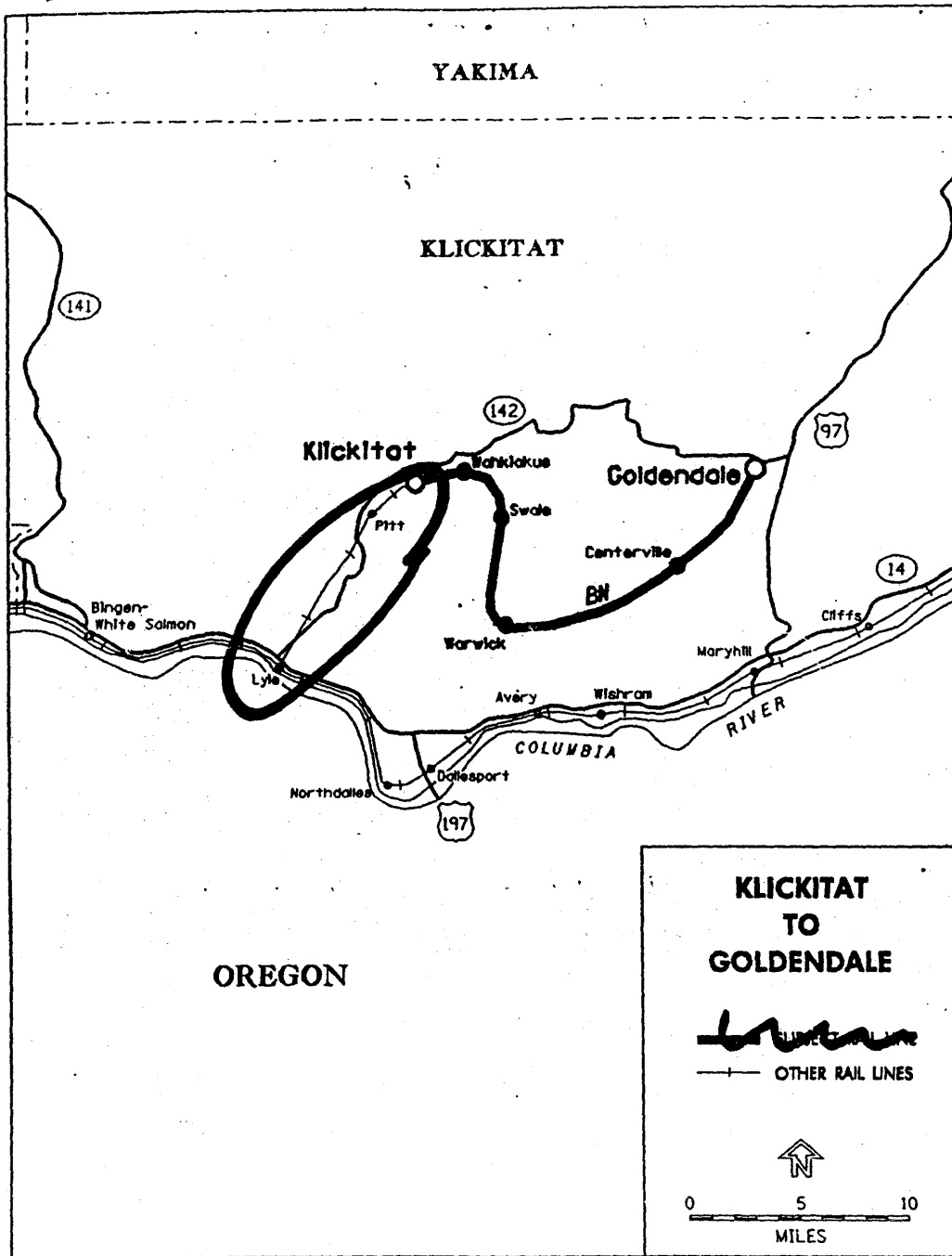


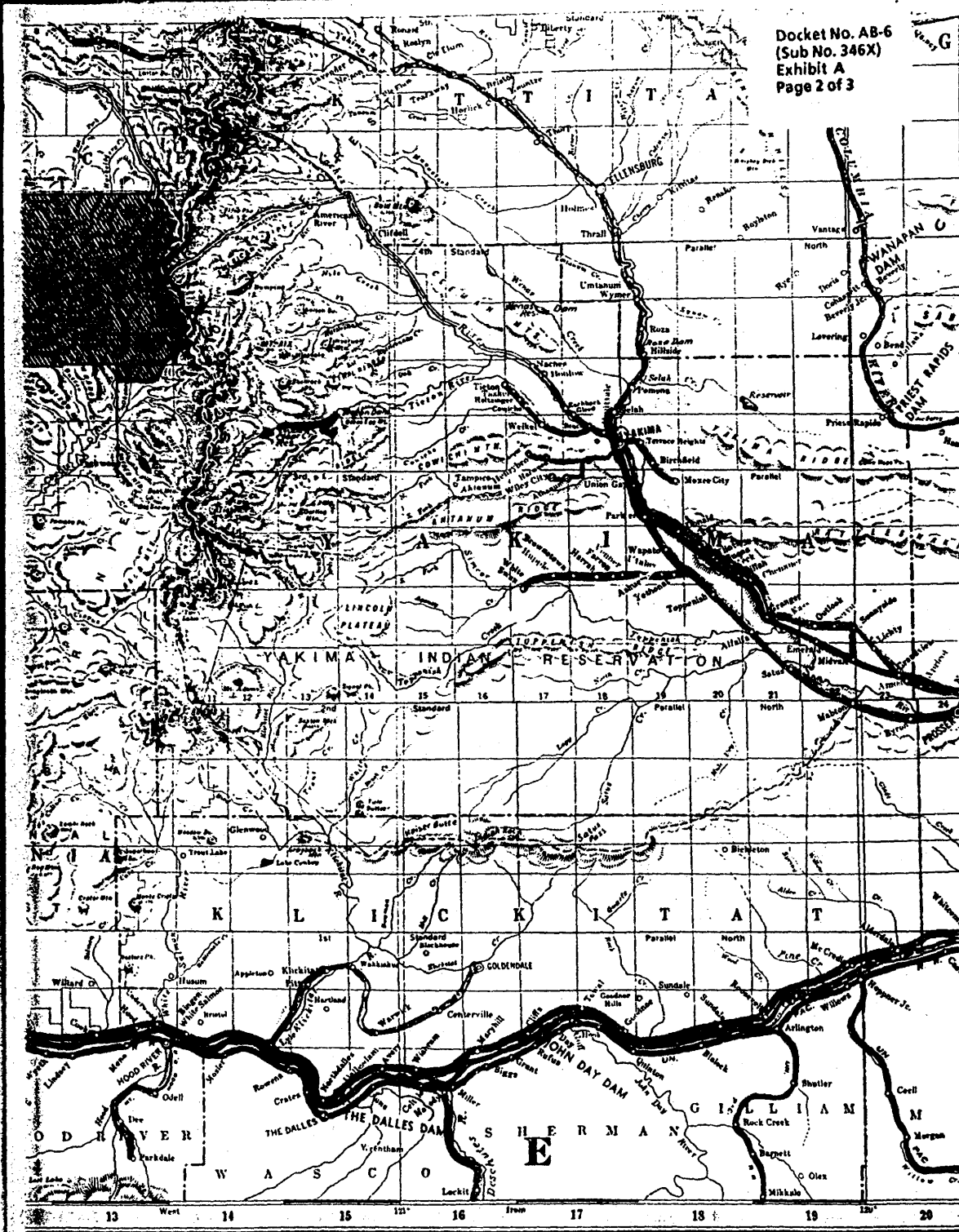
Figure 5-9

BN MAP NO. WA: 47- 4

Docket No. AB-6
(Sub No. 346X)
Exhibit A
Page 1 of 3

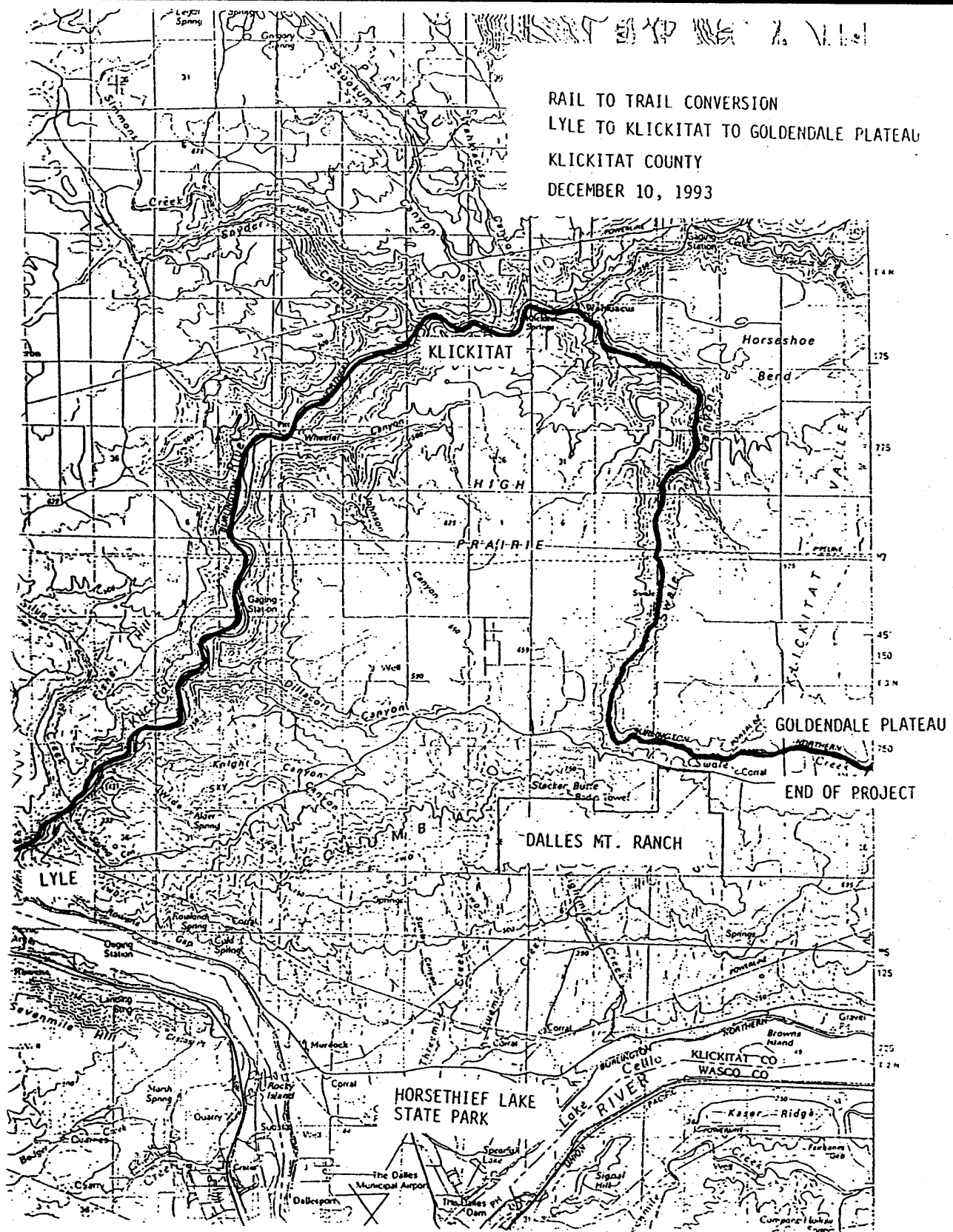


Exhibit B
Page 2 of 8

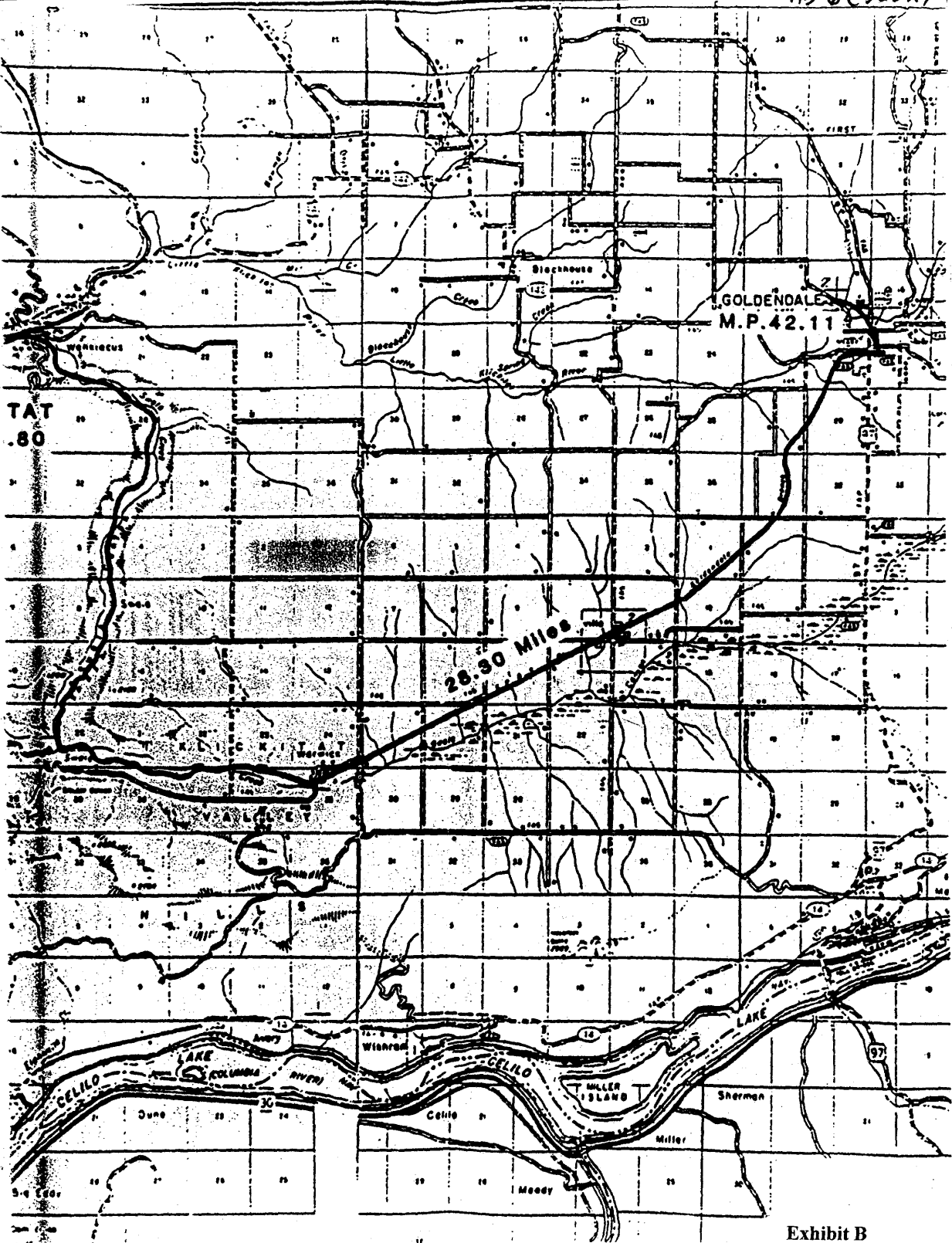


Docket No. AB-6
(Sub No. 346X)
Exhibit A
Page 2 of 3

Exhibit B
Page 3 of 8



4556 (555X)



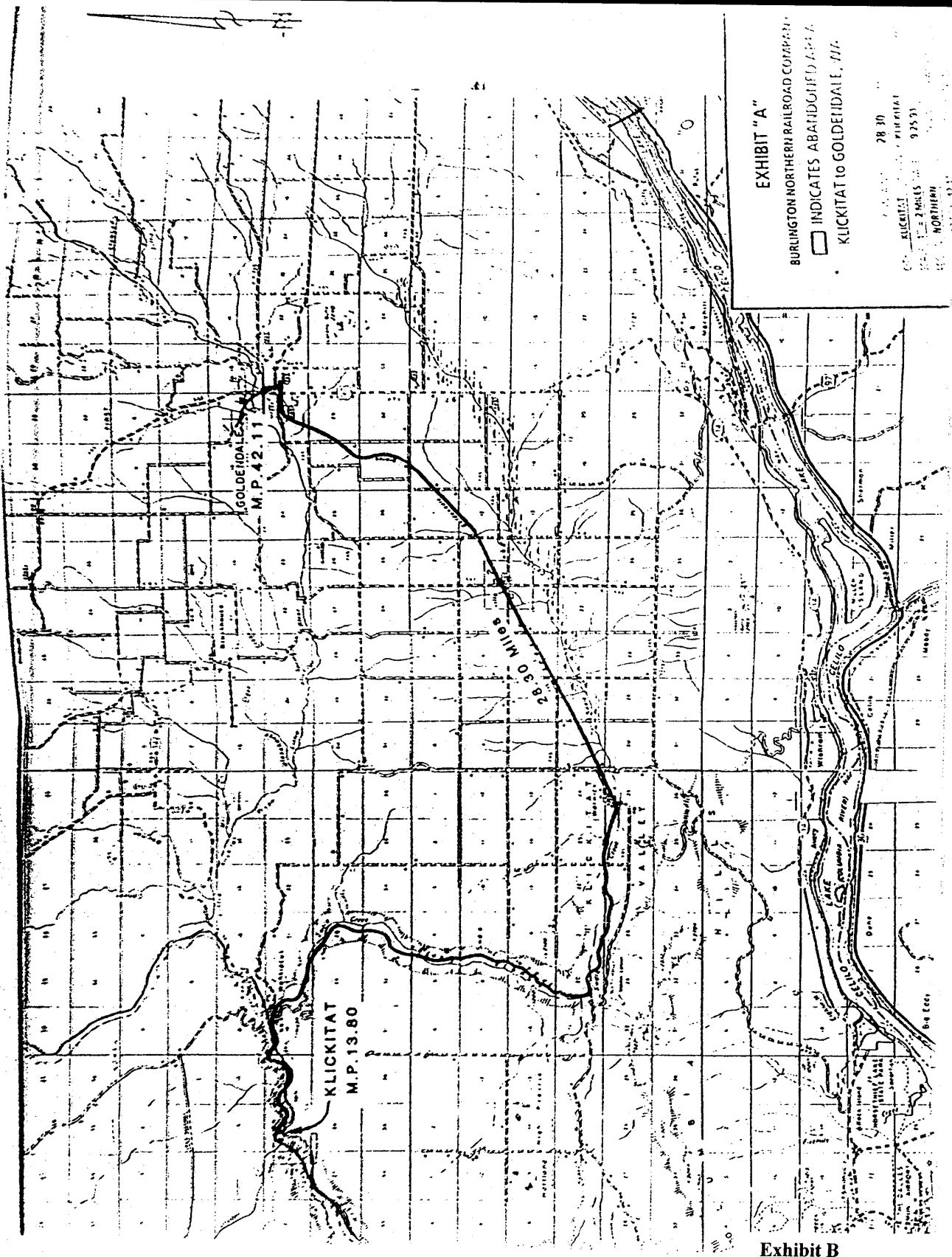


EXHIBIT "A"

BURLINGTON NORTHERN RAILROAD CORRIDOR

INDICATES ABIDJIFF TO GOLDEN...

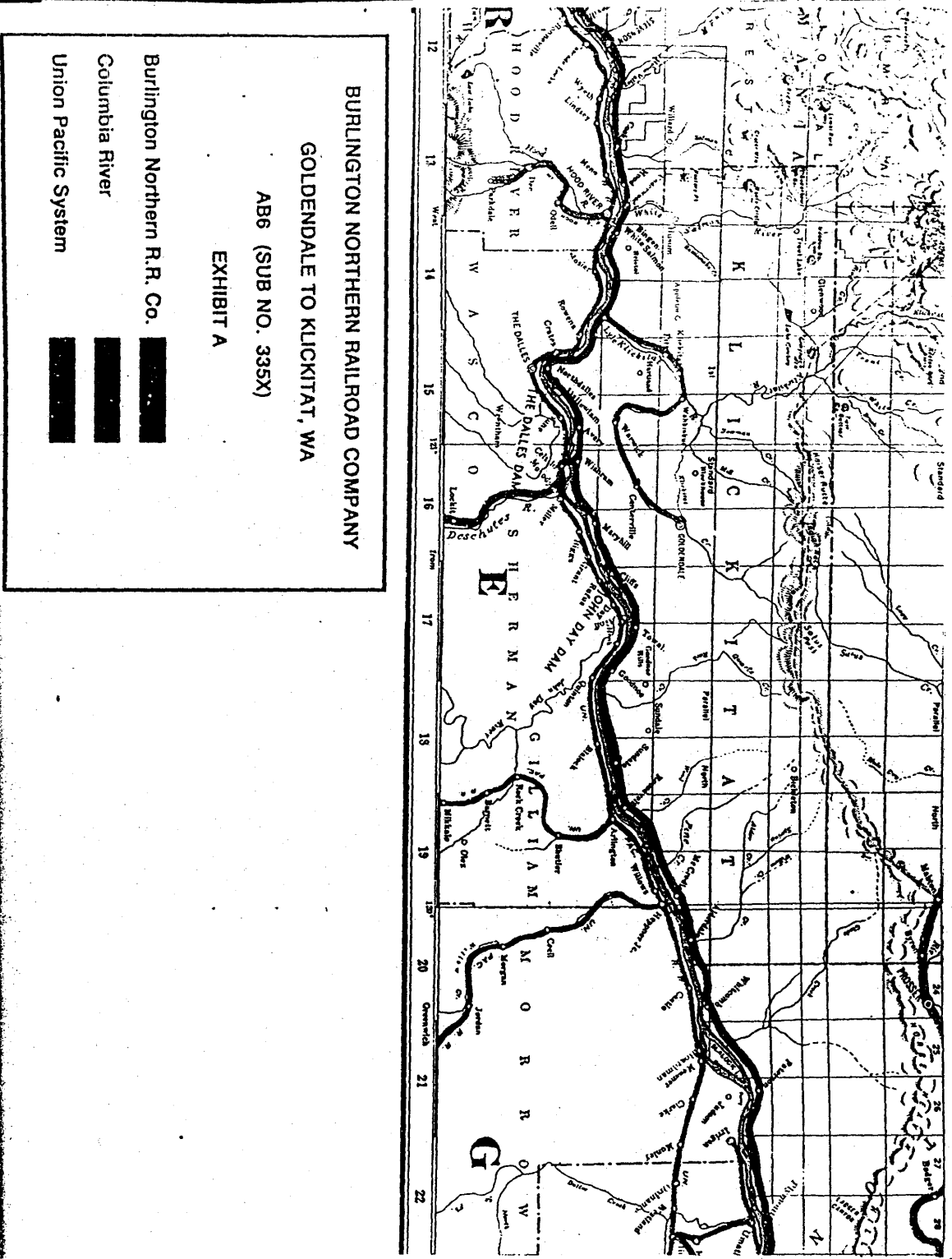
CLICKITAT TO GOLDEDALE, 111-

28.30

CLICKITAT

2 MILES

NORTH



BURLINGTON NORTHERN RAILROAD COMPANY
GOLDENDALE TO KLICKITAT, WA
AB6 (SUB NO. 335X)
EXHIBIT A




Burlington Northern R.R. Co. 
Columbia River 
Union Pacific System 

EXHIBIT C

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB-6; SUB. NOS. 346X & 335X

BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT
EXEMPTION – IN KLINKITAT COUNTY, WA, (Sub-No. 346X)

and,

BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT
EXEMPTION – BETWEEN KLINKITAT AND GOLDENDALE, WA,
(Sub-No. 335X)

DECLARATION OF CRAIG TRUMMEL

I, Craig Trummel, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am of lawful age, and am qualified and authorized to file this Declaration, Executed on February 3, 2005

1. I am an attorney and licensed to practice law in the states of Washington and Wyoming. I am the General Manager for two offices of AmeriTitle, Inc. One office serves Klickitat County, Washington, based out of White Salmon, and the other office is located in The Dalles, Oregon and serves Wasco and Sherman Counties, Oregon,.
2. AmeriTitle, Inc., is a title and escrow company. Along with my duties as General Manager, I am a title officer and I examine title on a regular basis for the company.

3. I have been asked by counsel for the Petitioners in the above referenced matter to review certain county maps and property deeds at two locations in Klickitat County. The attached maps, tax identification sheets, and deeds have been reviewed by me and are accurate and correct copies of maps, tax identification information, and recorded deeds as kept and maintained by the County's Auditor and Assessor's offices.
4. To assist with following the references made herein, the parcels identified on the maps, the tax identification information, and the recorded deeds, have been annotated with reference numbers, as set out below.
5. Attachment 1 is a copy of a map in Lyle, Washington, where the Klickitat Trail dead-ends into Highway 14.
6. Moving from north to south on the map, the Klickitat Trail is located at Number "❶" on the map. (Attachment 1.) The tax identification for the right-of-way parcel is difficult to read on the map, but it is Tax ID No. 03123400100000. (Attachment 1.) That parcel has been annotated on the map with gray shading for identification purposes.
7. The tax identification information in Attachment 2 shows that the current owner of the right-of-way interests is the Washington State Parks Commission. (Attachment 2.) They obtained those interests from the Rails-to-Trails Conservancy ("RTC") who obtained their interests from

Burlington Northern Santa Fe Railway ("BNSF"). (See RTC and BNSF right-of-way quit claim deeds, Attachment 3.)

8. This end-point for the Klickitat Trail is located in Section 34, Township 3 North, Range 12 East. (Attachment 1.)
9. Highway 14 is located immediately south of the trail and runs in a north-east/south-west direction. The highway is identified on the map at Number "②". On this map, the highway is located in both Section 34, Township 3 North, Range 12 East and in Section 3, Township 2 North, Range 12 East. (Attachment 1.)
10. Abutting Highway 14 is private property, owned by Greg Colt Land Brokers, Inc., Tax ID No. 03123400000600, located in Section 34, Township 3 North, Range 12 East. The property is identified on the map as Number "③". (Attachments 1 & 4.) The east portion of that property was the subject of a "Quit Claim and Release of Interest" that was deeded to Greg Colt Land Brokers, Inc. by BNSF on November 11, 1998. (Attachment 5.)
11. To the east of the property of Greg Colt Land Brokers, Inc., and abutting the south edge of Highway 14, is property owned by Western Estates, Inc., Tax ID No. 02120312009700, located in both Section 34, Township 3 North, Range 12 East and in Section 3, Township 2 North, Range 12 East.

The property is identified on the map as Number “④”. (Attachments 1 & 6.) Any interests held in that property by BNSF – excepting any mineral rights – were conveyed to Rutledge Hotel on May 29, 2003 (Attachment 7), and that property was conveyed by Rutledge Hotel to Western Estates, Inc., on August 19, 2004. (Attachment 8.)

12. East and south of the property of Greg Colt Land Brokers, Inc., is property also owned by Western Estates, Inc., with Tax ID No. 02120312009800, located in Section 3, Township 2 North, Range 12 East. The property is identified on the map as Number “⑤”. (Attachments 1 & 9.) Any interests in that parcel were included in the aforementioned BNSF to Rutledge Hotel conveyance (Attachment 7), and the property was subsequently conveyed by Rutledge Hotel to Western Estates, Inc. on March 31, 2004. (Attachment 10.)

13. Abutting the north-east part of Number ⑤, and abutting the south edge of Highway 14, is property owned by Joyce Hutchins, Tax ID No. 02120312000800, which is located primarily in Section 3, Township 2 North, Range 12 East, with a small, northern corner in Section 34, Township 3 North, Range 12 East. The property is identified on the map as Number “⑥”. (Attachments 1 & 11.) I have reviewed the chain of title and it appears that since 1911 that property Number ⑥ has been in private

ownership, and has not been part of the railroad right-of-way.

14. Abutting the south edge of Highway 14, and located south of the property identified on the map as Number ⑥, is property owned by Western Estates, Inc., Tax ID No. 02120312000900, all located in Section 3, Township 2 North, Range 12 East. The property is identified on the map as Number “⑦”. (Attachments 1 & 12.) That property was conveyed by Rutledge Hotel to Western Estates, Inc. by Warranty Deed on March 31, 2004 along with parcel Number ⑤. (Attachment 10.)
15. I have reviewed the relevant historical tax parcel information available in County records and applicable deeds, which show that parcel Number ⑦ has historically been in private ownership and was not part of the BNSF railroad right-of-way corridor.
16. I have reviewed the relevant historical tax parcel information available in County records and applicable deeds, and it appears that the original BNSF right-of-way that extended south of Highway 14, comprised of the parcels that are numbered ④, ⑤, and the east portion of parcel Number ③ on the attached annotated map. (Attachment 1.)
17. Marked on the map as parcel Number “⑧” is the railroad right-of-way that, to my knowledge, is still operating in Klickitat County by BNSF. That parcel has been annotated on the map with gray shading for identification

purposes.

18. The parcel identified as Number 9 on the map (Attachment 1) is Centerville Highway. (Attachment 1.)
19. Attachment 13 is a copy of the County Assessor's Map in the area of Township 3 North, Range 14 East and Township 3 North, Range 15 East, where the Klickitat Branch Line dead-ends on its north-east end into Uecker Road.
20. Moving from west to east on the map, the Klickitat Trail is located at Number "❶" on the map. (Attachment 13.) The tax identification for the right-of-way parcel is difficult to read on the map, but it is Tax ID No. 03142500000200. (Attachment 13.) That parcel has been annotated on the map with gray shading for identification purposes.
21. The Tax ID No. shows that the current owner of the right-of-way interests is the Washington State Parks Commission. (Attachment 14.)
22. Immediately north-east of the Trail on the County's tax records is a short segment of right-of-way attributed to BNSF, under Tax ID No. 03142400000400. This parcel is identified on the map at Number "❷". This parcel is located in Section 24, Township 3 North, Range 14 East. (Attachments 13 & 15.)
23. Abutting the right-of-way to the north is private property, owned by

Raymond Mattson, Tax ID No. 03142400000300, located in Section 24, Township 3 North, Range 14 East. The property is identified on the map as Number “③”. (Attachments 13 & 16.)

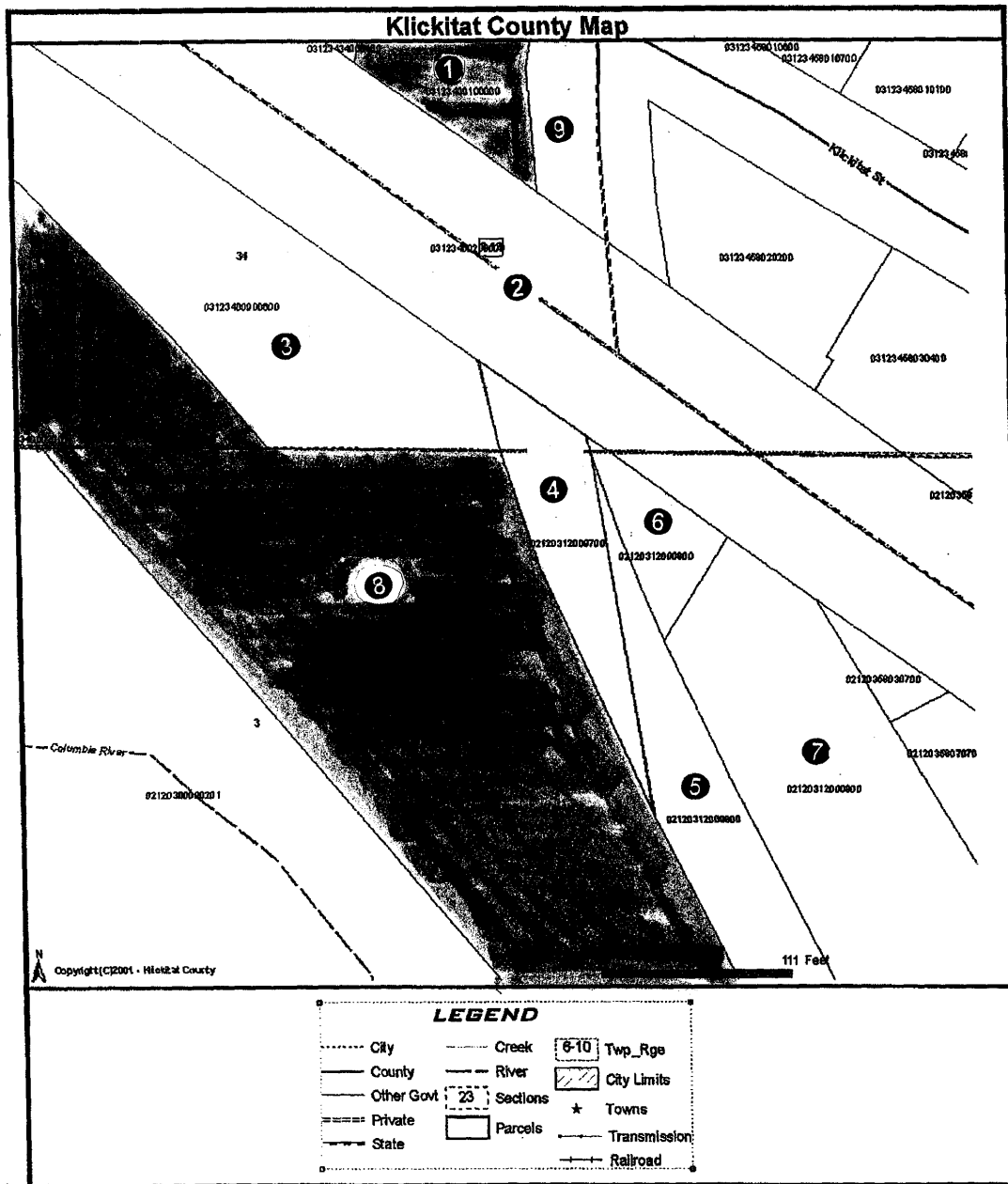
24. To the south of Number ③ and abutting the south edge of the right-of-way is private property owned by Max Fernandez, Tax ID No. 03142400000500, located in Section 24, Township 3 North, Range 14 East. This property is identified on the map as Number “④”. (Attachments 13 & 17.)
25. Running north and south, and abutting on the east side of the right-of-way, and on the east side of parcels Number ③ and ④, sits Uecker Road.
26. To the west of Uecker Road, and across Uecker Road from the right-of-way are two parcels of private property: to the south is a parcel owned by Max Fernandez, Tax ID No. 03151900000400, located in Section 19, Township 3 North, Range 15 East. This property is identified on the map as Number “⑤”. (Attachments 13 & 18.) And to the north is a parcel owned by Raymond Mattson, Tax ID No. 03151900000100, also located in Section 19, Township 3 North, Range 15 East. The property is identified on the map as Number “⑥”. (Attachments 13 & 19.)
27. The diagonal line on the map (Attachment 13), running between parcels Number ⑤ and ⑥ is not a railroad right-of-way designation but rather a line

demarcating the border between ⑤ and ⑥.

A handwritten signature in black ink, appearing to read 'C. Trummel', written over a horizontal line.

Craig Trummel
General Manager, AmeriTitle, Inc.

ATTACHMENT 1



ATTACHMENT 2

□ □ ×

| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
|---------|---------|--------|-------|--------|------------|---------|
|---------|---------|--------|-------|--------|------------|---------|

Financial History... | Print Property Summary | Close | Help...

ATTACHMENT 3

1302

76.651

REAL ESTATE EXCISE TAX

2 11 Dec 1993 1994

1172 24 has been paid

54736 MAR 1 1 1994

REC-54736

KLICKITAT COUNTY TREASURER

Quinn R. [Signature]

FILED FOR RECORD

KLICKITAT COUNTY CLERK

94 MAR 11 PM 2:34

FILED BY Karc

RETURN TO Karc

QUITCLAIM DEED

VCL 307 PAGE 080-1

239709

BURLINGTON NORTHERN RAILROAD COMPANY (formerly named Burlington Northern Inc.), a Delaware corporation, Grantor, for Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, conveys and quit claims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **RAILS TO TRAILS CONSERVANCY**, a non-profit entity organized under the laws of the District of Columbia, with its principal office at 1400 Sixteenth Street, N.W., Washington, D.C. 20036, Grantee, all its right, title and interest, if any, in real estate situated in Klickitat County, State of Washington, together with all after acquired title of Grantor therein, described in Exhibit "A" attached hereto and made a part hereof:

SUBJECT, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise.

ALSO, the Grantee, and for its successors and assigns, by acceptance of this deed, hereby releases and forever discharges the Grantor, its successors and assigns, from any and all present or future obligations of the Grantor, its successors and assigns, including but not limited to the construction of or continued maintenance thereto of any railroad fences, snow fences, road crossings, cattle guards, gates, farm crossings, bridges, drainage or irrigation pipes, if any, located and situate on the premises herein conveyed.

INTERSTATE COMMERCE COMMISSION, through its Docket No. AB-6 (Sub No. 334X): Burlington Northern Railroad Company - Abandonment Exemption - Klickitat County, Washington, has issued a Notice of Interim Trail Use, in lieu of a Notice of Exemption for Abandonment, for that right-of-way conveyed hereunder, that the transfer is made pursuant to that Notice of Interim Trail Use, and is further subject to an Interim Trail Use/Railbanking Agreement Between Burlington Northern Railroad Company and the Rails to Trails Conservancy which provides for reconveyance of the right-of-way in the event of the restoration of railroad service, dated August 23, 1993, as amended.

By acceptance of this deed, Grantee acknowledges that a material consideration for this conveyance, without which it would not be made, is the agreement by the Grantee for itself and for its heirs and assigns that the Grantor, its predecessors, successors, and assigns shall be in no manner responsible to the Grantee, any subsequent owner, purchaser, or any person interested therein for any and all claims, demands, damages, causes of action including loss of access, or suits regarding the quiet and peaceable possession of such premises, title thereto, or condition thereof.

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed by its Director, Title Services & Field Support, attested by its Assistant Secretary, and its corporate seal to be affixed on the 11th day of February, 1994.

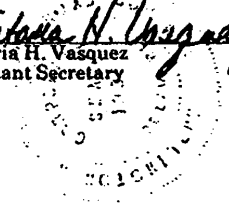
BURLINGTON NORTHERN
RAILROAD COMPANY

ACCEPTED:
RAILS TO TRAILS CONSERVANCY

By _____
Title:

BY D. P. Schneider
D. P. Schneider, Director
Title Services & Field Support

ATTEST:
BY Victoria H. Vasquez
Victoria H. Vasquez
Assistant Secretary



BN 10177 Lyle to Goldendale, WA

STATE OF TEXAS)
) ss.
COUNTY OF TARRANT)

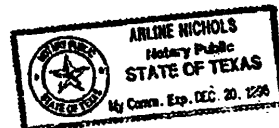
On this 11th day of February, 1994, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared D. P. Schneider and Victoria H. Vasquez, to me known to be the Director, Title Services & Field Support, and Assistant Secretary, respectively, of Burlington Northern Railroad Company, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

Arline Nichols
Notary Public in and for the State of Texas

Residing at: Fort Worth, Texas

My appointment expires: December 20, 1996



BN 10177 Lyle to Goldendale, WA

EXHIBIT "A"

To Quitclaim Deed from Burlington Northern Railroad Company to Rails to Trails Conservancy dated Feb. 11 1994, Pages 1 of 6.

All that portion of Burlington Northern Railroad Company's (formerly Spokane, Portland & Seattle Railway Company) Lyle to Warwick, Washington Branch Line right of way, now discontinued, being of variable widths on each side of said Railroad Company's Main Track centerline as originally located and constructed upon, over and across Sections 34, 35, 26, 25 and 24, Township 3 North, Range 12 East, Sections 19, 18, 17, 8 and 5 Township 3 North, Range 13 East and Sections 32, 33, 28, 27, 22, 23 and 24, Township 4 North, Range 13 East, Sections 19, 20, 21, 28 and 33 Township 4 North, Range 14 East, Sections 4, 5, 8, 9, 17, 20, 21, 28, 27, 22, 27, 26, 23, 25 and 24, Township 3 North, Range 14 East, Sections 19, 20, 17, 16, 15, 10, 11, 12 and 1, Township 3 North, Range 15 East, Section 6, Township 3 North, Range 16 East, and Sections 31, 30, 29, 20 and 21, Township 4 North, Range 16 East of the Willamette Meridian, Klickitat County, Washington more particularly described as follows, to-wit:

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the W1/2SE1/4 of said Section 34 bounded on the south by the north line of State Highway No. 14 as now located and constructed and bounded on the east by the east line of said W1/2SE1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4SE1/4 of said Section 34 and the NW1/4NW1/4SW1/4 of said Section 35 bounded on the southwest by the west line of said NE1/4SE1/4 and bounded on the northeast by the north line of said NW1/4NW1/4SW1/4; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4, and the NW1/4NE1/4 of said Section 35, the SE1/4 and the SE1/4NE1/4 of said Section 26 bounded on the south by the south line of said NW1/4 of Section 35 and bounded on the northeast by the east line of said SE1/4NE1/4 of Section 26; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2NW1/4 of said Section 25 bounded on the southwest by the west line of said S1/2NW1/4 and bounded on the northeast by the north line of said S1/2NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NW1/4 and the W1/2NE1/4 of said Section 25, the SE1/4 of said Section 24 and the SW1/4 of said Section 19 bounded on the southeast by the south line of said N1/2NW1/4 of Section 25 and bounded on the northeast by the north line of said SW1/4 of said Section 19; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NW1/4 of said Section 19 bounded north and south by the north and south lines of said E1/2NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SE1/4SW1/4 and the E1/2 of said Section 18 and the NW1/4 of said Section 17, T3N, R13E bounded on the south by the south line of said SE1/4SW1/4 of Section 18 and bounded on the north by the north line of said NW1/4 of Section 17; also,

All of the NW1/4NW1/4 of said Section 17, T3N, R13E, EXCEPTING THEREFROM, the hereinabove described 200.0 foot wide Branch Line right of way; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2SW1/4 of said Section 8, T3N, R13E bounded on the south and west by the south and west lines of said E1/2SW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4SW1/4 and the NW1/4 of said Section 8 and the W1/2 of said Section 5, T3N, R13E bounded on the south by the east line of said NW1/4SW1/4 of Section 8 and bounded on the north by the north line of said W1/2 of Section 5; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2SW1/4 and the SE1/4NW1/4 of said Section 32, T4N, R13E bounded on the south by the south line of said E1/2SW1/4 and bounded on the north by the north line of said SE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SE1/4NE1/4NW1/4 of said Section 32 bounded on the south and east by the south and east lines of said SE1/4NE1/4NW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NE1/4 of said Section 32, T4N, R13E bounded on the west and east by the west and east lines of said N1/2NE1/4; also,

An additional parcel of land situated in the NE1/4NE1/4 of said Section 32 bounded on the north by the south line of the hereinabove described 60.0 foot wide Branch Line right of way, lying north of the low water line of the Klickitat River and bounded on the west and east by the west and east lines of said NE1/4NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4NW1/4 of said Section 33 and the W1/2SW1/4 of said Section 28, T4N, R13E bounded on the southwest by the west line of said NW1/4NW1/4 of Section 33 and bounded on the northeast by the east line of said W1/2SW1/4 of Section 28; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2SW1/4, the N1/2SE1/4 and the SE1/4NE1/4 of said Section 28, T4N, R13E bounded on the southwest by the west line of said E1/2SW1/4 and bounded on the northeast by the north and east lines of said SE1/4NE1/4 of Section 28; also,

A triangular parcel of land situated in the SE1/4NE1/4NE1/4 of said Section 28, T4N, R13E lying southeasterly of a line drawn parallel with distant 100.0 feet northwesterly, measured at right angles, from said Main Track centerline; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2 of said Section 22, the W1/2SW1/4 and the S1/2NW1/4 of said Section 23, T4N, R13E bounded on the southwest by the south line of said S1/2 of Section 22 and bounded on the northeast by a line drawn at right angles to said Main Track centerline distant 345.0 feet southwesterly from the north line of said S1/2NW1/4 of Section 23; also,

All that portion of said Railroad Company's 130.0 foot wide Branch Line right of way, being 100.0 feet wide on the northerly side and 30.0 feet wide on the southerly side of said Main Track centerline upon, over and across the S1/2NE1/4NW1/4 of said Section 23, T4N, R13E, bounded on the south and east by the south and east lines of said S1/2NE1/4NW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4SE1/4NW1/4 and the SW1/4NE1/4 of said Section 23 bounded on the northwest by the north line of said NE1/4SE1/4NW1/4 and bounded on the southeast by the east line of said SW1/4NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SE1/4NE1/4 and the N1/2N1/2NE1/4SE1/4 of said Section 23 and the SW1/4NW1/4 of said Section 24, T4N, R13E bounded on the west by the west line of said SE1/4NE1/4 of Section 23 and bounded on the east by the east line of said SW1/4NW1/4 of Section 24; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2SE1/4NW1/4 of said Section 24, T4N, R13E bounded on the west and east by the west and east lines of said S1/2SE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NE1/4SW1/4 of said Section 24 bounded on the north and east by the north and east lines of said N1/2NE1/4SW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NW1/4SE1/4 of said Section 24, T4N, R13E bounded on the west and east by the west and east lines of said N1/2NW1/4SE1/4; also,

All that portion of the NW1/4NE1/4SE1/4 of said Section 24, T4N, R13E lying northwesterly of a line drawn parallel with, distant 100.0 feet southeasterly, measured radially, from said Main Track centerline; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NE1/4 of said Section 24, T4N, R13E bounded on the south and east by the south and east lines of said E1/2NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4NW1/4 of said Section 19, T4N, R14E bounded on the west and east by the west and east lines of said NW1/4NW1/4; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4NW1/4 of said Section 19, T4N, R14E bounded on the west and east by the west and east lines of said NE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Station Ground property at Wahkiakus, Washington located on said Branch Line right of way, being 150.0 feet wide on the northwesterly side and 50.0 feet wide on the southeasterly side of said Main Track centerline upon, over and across the NW1/4NE1/4 of said Section 19, T4N, R14E bounded on the west and east by the west and east lines of said NW1/4NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NE1/4 of said Section 19 and the W1/2NW1/4 of said Section 20, T4N, R14E bounded on the west by the west line of said E1/2NE1/4 and bounded on the south by the south line of said W1/2NW1/4; also,

An additional parcel of land lying adjacent to and southerly of the hereinabove described 200.0 foot wide Branch Line right of way situated in the said E1/2NE1/4 of said Section 19 and the said W1/2NW1/4 of said Section 20, T4N, R14E lying northerly of a line drawn parallel with and distant 50.0 feet southerly, measured at right angles and radially, from the relocated Main Track centerline and lying southerly of a line drawn parallel with distant 100.0 feet southerly, measured at right angles, from the original Main Track centerline; also,

An additional parcel of and lying adjacent to and southerly of the hereinabove described 200.0 foot wide Branch Line right of way situated in the NW1/4SW1/4NW1/4 of said Section 20, T4N, R14E bounded on the southwest side by a line drawn parallel with, distant 100.0 feet southerly, measured radially from said relocated Main Track centerline, bounded on the northeast side by a line drawn parallel with distant 100.0 feet southwesterly, measured radially from the original Main Track centerline and bounded on the northwest by a line drawn at right angles and radially from the original Main Track centerline through the east end of the last described parcel of land; also,

FILED FOR RECORD
Klickitat County Auditor

95 MAY 23 PM 12: 35

CORRECTION QUITCLAIM DEED VOL 322 PAGE 242-

Return: *Larry Ford*
FILED BY *Burlington North*
RETURN TO *John Smith*
3300 Continental Dr
Spokane, ID 99202

247203

BURLINGTON NORTHERN RAILROAD COMPANY (formerly named Burlington Northern Inc.), a Delaware corporation, Grantor, for Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, conveys and quit claims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to RAILS TO TRAILS CONSERVANCY, a non-profit entity organized under the laws of the District of Columbia, with its principal office at 1400 Sixteenth Street, N.W., Washington, D.C. 20036, Grantee, all its right, title and interest, if any, in real estate situated in Klickitat County, State of Washington, together with all after acquired title of Grantor therein, described in Exhibit "A" attached hereto and made a part hereof:

This deed supersedes, replaces and is given to correct the legal description contained on Exhibit "A", to delete certain sections included in the caption of the legal description in that certain deed dated March 31, 1994 and filed for record on April 11, 1994 as Document No. 240227 in the Auditor's office of Klickitat County, Washington.

SUBJECT, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise.

ALSO, the Grantee, and for its successors and assigns, by acceptance of this deed, hereby releases and forever discharges the Grantor, its successors and assigns, from any and all present or future obligations of the Grantor, its successors and assigns, including but not limited to the construction of or continued maintenance thereto of any railroad fences, snow fences, road crossings, cattle guards, gates, farm crossings, bridges, drainage or irrigation pipes, if any, located and situate on the premises herein conveyed.

INTERSTATE COMMERCE COMMISSION, through its Docket No. AB-6 (Sub No. 334X): Burlington Northern Railroad Company - Abandonment Exemption - Klickitat County, Washington, has issued a Notice of Interim Trail Use, in lieu of a Notice of Exemption for Abandonment, for that right-of-way conveyed hereunder, that the transfer is made pursuant to that Notice of Interim Trail Use, and is further subject to an Interim Trail Use/Railbanking Agreement Between Burlington Northern Railroad Company and the Rails to Trails Conservancy which provides for reconveyance of the right-of-way in the event of the restoration of railroad service, dated August 23, 1993, as amended.

By acceptance of this deed, Grantee acknowledges that a material consideration for this conveyance, without which it would not be made, is the agreement by the Grantee for itself and for its heirs and assigns that the Grantor, its predecessors, successors, and assigns shall be in no manner responsible to the Grantee, any subsequent owner, purchaser, or any person interested therein for any and all claims, demands, damages, causes of action including loss of access, or suits regarding the quiet and peaceable possession of such premises, title thereto, or condition thereof.

REAL ESTATE EXCISE TAX
Ch. 11 Rev. Laws 1961

\$ *10.00* less than paid
247203

Exhibit C
Attachment 3 - Page 8 of 24

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed by its Manager Real Estate, attested by its Assistant Secretary, and its corporate seal to be affixed on the 3rd day of May, 1995.

BURLINGTON NORTHERN
RAILROAD COMPANY

BY D. P. Schneider
D. P. Schneider, Manager
Real Estate

ATTEST
BY Lynne Meier
LYNNE MEIER
ASSISTANT SECRETARY

BN 10177 Lyle to Wdarwick, WA

EXHIBIT "A"

To Quitclaim Deed from Burlington Northern Railroad Company to Rails to Trails Conservancy dated May 3rd 1995, Pages 1 of 6.

All that portion of Burlington Northern Railroad Company's (formerly Spokane, Portland & Seattle Railway Company) Lyle to Warwick, Washington Branch Line right of way, now discontinued, being of variable widths on each side of said Railroad Company's Main Track centerline as originally located and constructed upon, over and across Sections 34, 35, 26, 25 and 24, Township 3 North, Range 12 East, Sections 19, 18, 17, 8 and 5, Township 3 North, Range 13 East and Sections 32, 33, 28, 27, 22, 23 and 24, Township 4 North, Range 13 East, Sections 19, 20, 21, 28 and 33 Township 4 North, Range 14 East, Sections 4, 5, 8, 9, 17, 20, 21, 28, 27, 22, 27, 26, 23, 25 and 24, Township 3 North, Range 14 East all of the Willamette Meridian, Klickitat County, Washington more particularly described as follows, to-wit:

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the W1/2SE1/4 of said Section 34 bounded on the south by the north line of State Highway No. 14 as now located and constructed and bounded on the east by the east line of said W1/2SE1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4SE1/4 of said Section 34 and the NW1/4NW1/4SW1/4 of said Section 35 bounded on the southwest by the west line of said NE1/4SE1/4 and bounded on the northeast by the north line of said NW1/4NW1/4SW1/4; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4, and the NW1/4NE1/4 of said Section 35, the SE1/4 and the SE1/4NE1/4 of said Section 26 bounded on the south by the south line of said NW1/4 of Section 35 and bounded on the northeast by the east line of said SE1/4NE1/4 of Section 26; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2NW1/4 of said Section 25 bounded on the southwest by the west line of said S1/2NW1/4 and bounded on the northeast by the north line of said S1/2NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NW1/4 and the W1/2NE1/4 of said Section 25, the SE1/4 of said Section 24 and the SW1/4 of said Section 19 bounded on the southeast by the south line of said N1/2NW1/4 of Section 25 and bounded on the northeast by the north line of said SW1/4 of said Section 19; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and

across the E1/2NW1/4 of said Section 19 bounded north and south by the north and south lines of said E1/2NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SE1/4SW1/4 and the E1/2 of said Section 18 and the NW1/4 of said Section 17, T3N, R13E bounded on the south by the south line of said SE1/4SW1/4 of Section 18 and bounded on the north by the north line of said NW1/4 of Section 17; also,

All of the NW1/4NW1/4 of said Section 17, T3N, R13E, EXCEPTING THEREFROM, the hereinabove described 200.0 foot wide Branch Line right of way; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2SW1/4 of said Section 8, T3N, R13E bounded on the south and west by the south and west lines of said E1/2SW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4SW1/4 and the NW1/4 of said Section 8 and the W1/2 of said Section 5, T3N, R13E bounded on the south by the east line of said NW1/4SW1/4 of Section 8 and bounded on the north by the north line of said W1/2 of Section 5; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2SW1/4 and the SE1/4NW1/4 of said Section 32, T4N, R13E bounded on the south by the south line of said E1/2SW1/4 and bounded on the north by the north line of said SE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SE1/4NE1/4NW1/4 of said Section 32 bounded on the south and east by the south and east lines of said SE1/4NE1/4NW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NE1/4 of said Section 32, T4N, R13E bounded on the west and east by the west and east lines of said N1/2NE1/4; also,

An additional parcel of land situated in the NE1/4NE1/4 of said Section 32 bounded on the north by the south line of the hereinabove described 60.0 foot wide Branch Line right of way, lying north of the low water line of the Klickitat River and bounded on the west and east by the west and east lines of said NE1/4NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4NW1/4 of said Section 33 and the W1/2SW1/4 of said Section 28, T4N, R13E bounded on the southwest by the west line of said NW1/4NW1/4 of Section 33 and bounded on the northeast by the east line of said W1/2SW1/4 of Section 28; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and

across the E1/2SW1/4, the N1/2SE1/4 and the SE1/4NE1/4 of said Section 28, T4N, R13E bounded on the southwest by the west line of said E1/2SW1/4 and bounded on the northeast by the north and east lines of said SE1/4NE1/4 of Section 28; also,

A triangular parcel of land situated in the SE1/4NE1/4NE1/4 of said Section 28, T4N, R13E lying southeasterly of a line drawn parallel with distant 100.0 feet north westerly, measured at right angles, from said Main Track centerline; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2 of said Section 22, the W1/2SW1/4 and the S1/2NW1/4 of said Section 23, T4N, R13E bounded on the southwest by the south line of said S1/2 of Section 22 and bounded on the northeast by a line drawn at right angles to said Main Track centerline distant 345.0 feet southwesterly from the north line of said S1/2NW1/4 of Section 23; also,

All that portion of said Railroad Company's 130.0 foot wide Branch Line right of way, being 100.0 feet wide on the northerly side and 30.0 feet wide on the southerly side of said Main Track centerline upon, over and across the S1/2NE1/4NW1/4 of said Section 23, T4N, R13E, bounded on the south and east by the south and east lines of said S1/2NE1/4NW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4SE1/4NW1/4 and the SW1/4NE1/4 of said Section 23 bounded on the northwest by the north line of said NE1/4SE1/4NW1/4 and bounded on the southeast by the east line of said SW1/4NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SE1/4NE1/4 and the N1/2N1/2NE1/4SE1/4 of said Section 23 and the SW1/4NW1/4 of said Section 24, T4N, R13E bounded on the west by the west line of said SE1/4NE1/4 of Section 23 and bounded on the east by the east line of said SW1/4NW1/4 of Section 24; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2SE1/4NW1/4 of said Section 24, T4N, R13E bounded on the west and east by the west and east lines of said S1/2SE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NE1/4SW1/4 of said Section 24 bounded on the north and east by the north and east lines of said N1/2NE1/4SW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NW1/4SE1/4 of said Section 24, T4N, R13E bounded on the west and east by the west and east lines of said N1/2NW1/4SE1/4; also,

All that portion of the NW1/4NE1/4SE1/4 of said Section 24, T4N, R13E lying northwesterly of a line drawn parallel with, distant 100.0 feet southeasterly, measured radially, from said Main Track centerline; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NE1/4 of said Section 24, T4N, R13E bounded on the south and east by the south and east lines of said E1/2NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4NW1/4 of said Section 19, T4N, R14E bounded on the west and east by the west and east lines of said NW1/4NW1/4; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4NW1/4 of said Section 19, T4N, R14E bounded on the west and east by the west and east lines of said NE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Station Ground property at Wahkiakus, Washington located on said Branch Line right of way, being 150.0 feet wide on the northwesterly side and 50.0 feet wide on the southeasterly side of said Main Track centerline upon, over and across the NW1/4NE1/4 of said Section 19, T4N, R14E bounded on the west and east by the west and east lines of said NW1/4NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NE1/4 of said Section 19 and the W1/2NW1/4 of said Section 20, T4N, R14E bounded on the west by the west line of said E1/2NE1/4 and bounded on the south by the south line of said W1/2NW1/4; also,

An additional parcel of land lying adjacent to and southerly of the hereinabove described 200.0 foot wide Branch Line right of way situated in the said E1/2NE1/4 of said Section 19 and the said W1/2NW1/4 of said Section 20, T4N, R14E lying northerly of a line drawn parallel with and distant 50.0 feet southerly, measured at right angles and radially, from the relocated Main Track centerline and lying southerly of a line drawn parallel with distant 100.0 feet southerly, measured at right angles, from the original Main Track centerline; also,

An additional parcel of and lying adjacent to and southerly of the hereinabove described 200.0 foot wide Branch Line right of way situated in the NW1/4SW1/4NW1/4 of said Section 20, T4N, R14E bounded on the southwest side by a line drawn parallel with, distant 100.0 feet southerly, measured radially from said relocated Main Track centerline, bounded on the northeast side by a line drawn parallel with distant 100.0 feet southwesterly, measured radially from the original Main Track centerline and bounded on the northwest by a line drawn at right angles and radially from the original Main Track centerline through the east end of the last described parcel of land; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2 of said Section 20, the S1/2SW1/4SW1/4 of said Section 21 and the

NE1/4NW1/4NW1/4 of said Section 28, T4N, R14E bounded on the northwest by the north line of said S1/2 of Section 20 and bounded on the southeast by the east line of said NE1/4NW1/4NW1/4 of Section 28; also,

Two additional strips of land both being 20.0 feet wide one on the southerly side and one on the northerly side of the hereinabove last described 60.0 foot wide Branch Line right of way situated in the E1/2SW1/4 of said Section 20, T4N, R14E bounded by two lines drawn parallel with distant, respectively, 30.0 feet and 50.0 feet northerly and southerly from said Main Track centerline and bounded on the east and west by the east and west line of said E1/2SW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4NW1/4 of said Section 28, T4N, R14E bounded on the west and south by the west and south lines of said NE1/4NW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4SE1/4NW1/4 of said Section 28, T4N, R14E bounded on the north and east by the north and east lines of said NE1/4SE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SW1/4NE1/4 and the W1/2SE1/4 of said Section 28, the W1/2NE1/4, the SE1/4SE1/4NW1/4 and the SW1/4 of said Section 33, T4N, R14E, the W1/4W1/2NW1/4 and the W1/2W1/2SW1/4 of said Section 4, the E1/2E1/2 of said Section 5, the NE1/4NE1/4NE1/4 and the E1/2E1/2SE1/4 of said Section 8, and the W1/2W1/2NW1/4 and the W1/2NW1/4SW1/4 of said Section 9 all in T3N, R14E bounded on the south by the south line of said E1/2E1/2SE1/4 of Section 8 and bounded on the north by the west line of said SW1/4NE1/4 of Section 28, T4N, R14E; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NE1/4 of said Section 17, T3N, R14E bounded on the north and west by the north and west lines of said E1/2NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SW1/4NE1/4, the NW1/4SE1/4 and the E1/2SW1/4 of said Section 17, and the W1/2 of said Section 20 bounded on the northeast by the east line of said SW1/4NE1/4 of Section 17 and bounded on the southeast by the east line of said W1/2 of Section 20; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2SE1/4 of said Section 20, the S1/2SW1/4 of said Section 21, the NE1/4NE1/4NW1/4 and the N1/2NE1/4 of said Section 28, the N1/2NW1/4 and the

N1/2NE1/4 of said Section 27, the SE1/4SW1/4 and the S1/2S1/2SW1/4SE1/4 of said Section 22, the S1/2S1/2SW1/4 of said Section 23, the NW1/4NW1/4NW1/4 and the N1/2NE1/4NW1/4 and the N1/2N1/2NE1/4 of said Section 26, the N1/2 of said Section 25, the SE1/4SE1/4 of said Section 24, T3N, R14E bounded on the west by the west line of said S1/2SE1/4 of Section 20, T3N, R14E and bounded on the east by the east line of said SE1/4SE1/4 of Section 24, T3N, R14E; also,

All of said Railroad Company's Station Ground property at Warwick, Washington located in the NW1/4NE1/4 of said Section 25, T3N, R14E on said Branch Line right of way described as follows:

Beginning at a point on the west line of said NW1/4NE1/4 distant 991.5 feet south of the northwest corner thereof; thence North 57 degrees 50 minutes East 1037.7 feet; thence North 32 degrees 10 minutes West 120.0 feet; thence South 57 degrees 50 minutes West 962.3 feet to a point in the said west line of said NW1/4NE1/4; thence south along said west line 141.8 feet to the Point of Beginning, EXCEPTING THEREFROM, a parcel of land described as follows:

Beginning at a point on the west line of said NW1/4NE1/4 distant 920.6 feet south of the northwest corner thereof; thence North 57 degrees 60 minutes East 118.9 feet; thence North 32 degrees 10 minutes West 60.0 feet; thence South 57 degrees 50 minutes West 81.1 feet to a point in the said west line NW1/4NE1/4; thence south along said west line 70.9 feet to the Point of Beginning.

BN 10177 Lyle to Warwick, WA

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REAL ESTATE EXCISE TAX
Ch. 11 Rev. Laws 1953

FILED BY KCTC
RETURN TO KCTC

FILED FOR RECORD
KLIKITAT COUNTY AGENT

54897 APR 12 1994 VOL 308 PAGE 243-251
QUITCLAIM DEED OF GIFT

KLIKITAT COUNTY TREASURER
By [Signature] DEPUTY

240242

RAILS TO TRAILS CONSERVANCY, a non-profit entity organized under the laws of the District of Columbia, with its principal office at 1400 Sixteenth Street, N.W., Washington, DC 20036, Grantor, conveys and quit claims as a gift, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to WASHINGTON STATE PARKS AND RECREATION COMMISSION, a governmental agency with an office at 7150 Cleanwater Lane, Olympia, WA 98504, Grantee, all its right, title and interest, if any, in real estate situated in Klickitat County, State of Washington, together with all after acquired title of Grantor therein, described in Exhibit "A" attached hereto and made a part hereof:

SUBJECT, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise.

ALSO, the Grantee, and for its successors and assigns, by acceptance of this deed, hereby releases and forever discharges the Grantor, its successors and assigns, from any and all present or future obligations of the Grantor, its successors and assigns, including but not limited to the construction of or continued maintenance thereto of any railroad fences, snow fences, road crossings, cattle guards, gates, farm crossings, bridges, drainage or irrigation pipes, if any, located and situate on the premises herein conveyed.

INTERSTATE COMMERCE COMMISSION, through its Docket No. AB-6 (Sub No. 334X) Burlington Northern Railroad Company - Abandonment Exemption - Klickitat County, Washington, has issued a Notice of Interim Trail Use, in lieu of a Notice of Exemption for Abandonment, for that right-of-way conveyed hereunder, that the transfer is made pursuant to that Notice of Interim Trail Use, and is further subject to an Interim Trail Use/Railbanking Agreement Between Burlington Northern Railroad Company and Rails to Trails Conservancy which provides for reconveyance of the right-of-way in the event of the restoration of railroad service, dated August 23, 1993, as amended, and is further subject to an Agreement Relating to Interim Trail Use and Railbanking between the Grantor and the Grantee, dated the date hereof.

By acceptance of this deed, Grantee acknowledges that a material condition of this conveyance, without which it would not be made, is the agreement by the Grantee for itself and for its heirs and assigns that the Grantor, its predecessors, successors and assigns shall be in no manner responsible to the Grantee, any subsequent owner, purchaser, or any person interested therein for any and all

claims, demands, damages, causes of action including loss of access, or suits regarding the quiet and peaceable possession of such premises, title thereto, or condition thereof.

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed by its President and attested by its Vice President this 25th day of March, 1994.

RAILS TO TRAILS CONSERVANCY

By: David G. Burwell
David G. Burwell
President

ATTEST:

By: Hal Hiemstra
Hal Hiemstra
Vice President

ACCEPTED:

WASHINGTON STATE PARKS
AND RECREATION COMMISSION

By: Andre J. Kamm
Name:
Title: SUPERVISOR LANDS



STATE OF VIRGINIA }
COUNTY OF FAIRFAX } ss.

I, Karin Cicelski, a notary public in and for the State and County aforesaid, do certify that David G. Burwell and Hal Hienstra, whose names are signed to the writing above, bearing date on the 25th day of March, 1994, have acknowledged the same before me in my County aforesaid. Given under my hand this 25th day of March, 1994.

Karin Cicelski
My Com. exp. July 31

WVI 308-245

EXHIBIT "A"

To Quitclaim Deed from Rails to Trails Conservancy to Washington State Parks and Recreation Commission dated March 25, 1994, page 1 of 6.

All real estate in Klickitat County, Washington conveyed by Burlington Northern Railroad Company to Rails to Trails Conservancy by Quitclaim Deed dated February 11, 1994, as follows:

All that portion of Burlington Northern Railroad Company's (formerly Spokane, Portland & Seattle Railway Company) Lyle to Warwick, Washington Branch Line right of way, now discontinued, being of variable widths on each side of said Railroad Company's Main Track centerline as originally located and constructed upon, over and across Sections 34, 35, 28, 25 and 24, Township 3 North, Range 12 East, Sections 19, 18, 17, 8 and 5 Township 3 North, Range 13 East and Sections 33, 32, 27, 22, 23 and 24, Township 4 North, Range 13 East, Sections 19, 20, 21, 23 and 33 Township 4 North, Range 14 East, Sections 4, 5, 8, 9, 17, 20, 21, 23, 27, 22, 27, 26, 23, 25 and 24, Township 3 North, Range 14 East, Sections 19, 20, 17, 16, 15, 10, 11, 12 and 1, Township 3 North, Range 15 East, Section 6, Township 3 North, Range 16 East, and Sections 31, 30, 29, 20 and 21, Township 4 North, Range 16 East of the Willamette Meridian, Klickitat County, Washington more particularly described as follows, to-wit:

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the W1/2SE1/4 of said Section 34 bounded on the south by the north line of State Highway No. 14 as now located and constructed and bounded on the east by the east line of said W1/2SE1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4SE1/4 of said Section 34 and the NW1/4NW1/4SW1/4 of said Section 35 bounded on the southwest by the west line of said NE1/4SE1/4 and bounded on the northeast by the north line of said NW1/4NW1/4SW1/4; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4, and the NW1/4NE1/4 of said Section 35, the SE1/4 and the SE1/4NE1/4 of said Section 26 bounded on the south by the south line of said NW1/4 of Section 35 and bounded on the northeast by the east line of said SE1/4NE1/4 of Section 26; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2NW1/4 of said Section 26 bounded on the southwest by the west line of said S1/2NW1/4 and bounded on the northeast by the north line of said S1/2NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NW1/4 and the W1/2NE1/4 of said Section 25, the SE1/4 of said Section 24 and the SW1/4 of said Section 19 bounded on the southeast by the south line of said N1/2NW1/4 of Section 25 and bounded on the northeast by the north line of said SW1/4 of said Section 19; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NW1/4 of said Section 19 bounded north and south by the north and south lines of said E1/2NW1/4; also.

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SE1/4SW1/4 and the E1/2 of said Section 18 and the NW1/4 of said Section 17, T3N, R13E bounded on the south by the south line of said SE1/4SW1/4 of Section 18 and bounded on the north by the north line of said NW1/4 of Section 17; also.

All of the NW1/4NW1/4 of said Section 17, T3N, R13E, EXCEPTING THEREFROM, the hereinabove described 200.0 foot wide Branch Line right of way; also.

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 60.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2SW1/4 of said Section 8, T3N, R13E bounded on the south and west by the south and west lines of said E1/2SW1/4; also.

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4SW1/4 and the NW1/4 of said Section 8 and the W1/2 of said Section 5, T3N, R13E bounded on the south by the east line of said NW1/4SW1/4 of Section 8 and bounded on the north by the north line of said W1/2 of Section 5; also.

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2SW1/4 and the SE1/4NW1/4 of said Section 32, T4N, R13E bounded on the south by the south line of said E1/2SW1/4 and bounded on the north by the north line of said SE1/4NW1/4; also.

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SE1/4NE1/4NW1/4 of said Section 32 bounded on the south and east by the south and east lines of said SE1/4NE1/4NW1/4; also.

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NE1/4 of said Section 32, T4N, R13E bounded on the west and east by the west and east lines of said N1/2NE1/4; also.

An additional parcel of land situated in the NE1/4NE1/4 of said Section 32 bounded on the north by the south line of the hereinabove described 60.0 foot wide Branch Line right of way, lying north of the low water line of the Klickitat River and bounded on the west and east by the west and east lines of said NE1/4NE1/4; also.

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4NW1/4 of said Section 33 and the W1/2SW1/4 of said Section 28, T4N, R13E bounded on the southwest by the west line of said NW1/4NW1/4 of Section 33 and bounded on the northeast by the east line of said W1/2SW1/4 of Section 28; also.

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2SW1/4, the N1/2SE1/4 and the SE1/4NE1/4 of said Section 28, T4N, R13E bounded on the southwest by the west line of said E1/2SW1/4 and bounded on the northeast by the north and east lines of said SE1/4NE1/4 of Section 28; also,

A triangular parcel of land situated in the SE1/4NE1/4NE1/4 of said Section 28, T4N, R13E lying southeasterly of a line drawn parallel with distant 100.0 feet northwesterly, measured at right angles, from said Main Track centerline; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2 of said Section 22, the W1/2SW1/4 and the S1/2NW1/4 of said Section 23, T4N, R13E bounded on the southwest by the south line of said S1/2 of Section 22 and bounded on the northeast by a line drawn at right angles to said Main Track centerline distant 345.0 feet southwesterly from the north line of said S1/2NW1/4 of Section 23; also,

All that portion of said Railroad Company's 130.0 foot wide Branch Line right of way, being 100.0 feet wide on the northerly side and 30.0 feet wide on the southerly side of said Main Track centerline upon, over and across the S1/2NE1/4NW1/4 of said Section 23, T4N, R13E, bounded on the south and east by the south and east lines of said S1/2NE1/4NW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4SE1/4NW1/4 and the SW1/4NE1/4 of said Section 23 bounded on the northwest by the north line of said NE1/4SE1/4NW1/4 and bounded on the southeast by the east line of said SW1/4NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SE1/4NE1/4 and the N1/2N1/2NE1/4SE1/4 of said Section 23 and the SW1/4NW1/4 of said Section 24, T4N, R13E bounded on the west by the west line of said SE1/4NE1/4 of Section 23 and bounded on the east by the east line of said SW1/4NW1/4 of Section 24; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2SE1/4NW1/4 of said Section 24, T4N, R13E bounded on the west and east by the west and east lines of said S1/2SE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NE1/4SW1/4 of said Section 24 bounded on the north and east by the north and east lines of said N1/2NE1/4SW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the N1/2NW1/4SE1/4 of said Section 24, T4N, R13E bounded on the west and east by the west and east lines of said N1/2NW1/4SE1/4; also,

All that portion of the NW1/4NE1/4SE1/4 of said Section 24, T4N, R13E lying northwesterly of a line drawn parallel with, distant 100.0 feet southeasterly, measured radially, from said Main Track centerline; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NE1/4 of said Section 24, T4N, R13E bounded on the south and east by the south and east lines of said E1/2NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NW1/4NW1/4 of said Section 19, T4N, R14E bounded on the west and east by the west and east lines of said NW1/4NW1/4; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4NW1/4 of said Section 19, T4N, R14E bounded on the west and east by the west and east lines of said NE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Station Ground property at Wahkiakus, Washington located on said Branch Line right of way, being 150.0 feet wide on the northwesterly side and 50.0 feet wide on the southeasterly side of said Main Track centerline upon, over and across the NW1/4NE1/4 of said Section 19, T4N, R14E bounded on the west and east by the west and east lines of said NW1/4NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NE1/4 of said Section 19 and the W1/2NW1/4 of said Section 20, T4N, R14E bounded on the west by the west line of said E1/2NE1/4 and bounded on the south by the south line of said W1/2NW1/4; also,

An additional parcel of land lying adjacent to and southerly of the hereinabove described 200.0 foot wide Branch Line right of way situated in the said E1/2NE1/4 of said Section 19 and the said W1/2NW1/4 of said Section 20, T4N, R14E lying northerly of a line drawn parallel with and distant 50.0 feet southerly, measured at right angles and radially, from the relocated Main Track centerline and lying southerly of a line drawn parallel with distant 100.0 feet southerly, measured at right angles, from the original Main Track centerline; also,

An additional parcel of and lying adjacent to and southerly of the hereinabove described 200.0 foot wide Branch Line right of way situated in the NW1/4SW1/4NW1/4 of said Section 20, T4N, R14E bounded on the southwest side by a line drawn parallel with, distant 100.0 feet southerly, measured radially from said relocated Main Track centerline, bounded on the northeast side by a line drawn parallel with distant 100.0 feet southwesterly, measured radially from the original Main Track centerline and bounded on the northwest by a line drawn at right angles and radially from the original Main Track centerline through the east end of the last described parcel of land; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2 of said Section 20, the S1/2SW1/4SW1/4 of said Section 21 and the NE1/4NW1/4NW1/4 of said Section 28, T4N, R14E bounded on the northwest by the north line of said S1/2 of Section 20 and bounded on the southeast by the east line of said NE1/4NW1/4NW1/4 of Section 28; also,

Two additional strips of land both being 20.0 feet wide one on the southerly side and one on the northerly side of the hereinabove last described 60.0 foot wide Branch Line right of way situated in the E1/2SW1/4 of said Section 20, T4N, R14E bounded by two lines drawn parallel with distant, respectively, 30.0 feet and 50.0 feet northerly and southerly from said Main Track centerline and bounded on the east and west by the east and west line of said E1/2SW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4NW1/4 of said Section 28, T4N, R14E bounded on the west and south by the west and south lines of said NE1/4NW1/4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the NE1/4SE1/4NW1/4 of said Section 28, T4N, R14E bounded on the north and east by the north and east lines of said NE1/4SE1/4NW1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SW1/4NE1/4 and the W1/2SE1/4 of said Section 28, the W1/2NE1/4, the SE1/4SE1/4NW1/4 and the SW1/4 of said Section 33, T4N, R14E, the W1/4W1/2NW1/4 and the W1/2W1/2SW1/4 of said Section 4, the E1/2E1/2 of said Section 5, the NE1/4NE1/4NE1/4 and the E1/2E1/2SE1/4 of said Section 8, and the W1/2W1/2NW1/4 and the W1/2NW1/4SW1/4 of said Section 9 all in T3N, R14E bounded on the south by the south line of said E1/2E1/2SE1/4 of Section 8 and bounded on the north by the west line of said SW1/4NE1/4 of Section 28, T4N, R14E; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the E1/2NE1/4 of said Section 17, T3N, R14E bounded on the north and west by the north and west lines of said E1/2NE1/4; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across the SW1/4NE1/4, the NW1/4SE1/4 and the E1/2SW1/4 of said Section 17, and the W1/2 of said Section 20 bounded on the northeast by the east line of said SW1/4NE1/4 of Section 17 and bounded on the southeast by the east line of said W1/2 of Section 20; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of said Main Track centerline upon, over and across the S1/2SE1/4 of said Section 20, the S1/2SW1/4 of said Section 21, the NE1/4NE1/4NW1/4 and the N1/2NE1/4 of said Section 28, the N1/2NW1/4 and the N1/2NE1/4 of said Section 27, the SE1/4SW1/4 and the S1/2S1/2SW1/4SE1/4 of said Section 22, the S1/2S1/2SW1/4 of said Section 25, the NW1/4NW1/4NW1/4 and the N1/2NE1/4NW1/4 and the N1/2N1/2NE1/4 of said Section 26, the N1/2 of said Section 25, the SE1/4SE1/4 of said Section 24, T3N, R14E bounded on the west by the west line of said S1/2SE1/4 of Section 20, T3N, R14E and bounded on the east by the east line of said SE1/4SE1/4 of Section 24, T3N, R14E; also,

All of said Railroad Company's Station Ground property at Warwick, Washington located in the NW1/4NE1/4 of said Section 25, T3N, R14E on said Branch Line right of way described as follows:

Beginning at a point on the west line of said NW1/4NE1/4 distant 991.5 feet south of the northwest corner thereof; thence North 57 degrees 50 minutes East 1037.7 feet; thence North 32 degrees 10 minutes West 120.0 feet; thence South 57 degrees 50 minutes West 962.3 feet to a point in the said west line of said NW1/4NE1/4; thence south along said west line 141.8 feet to the Point of Beginning, EXCEPTING THEREFROM, a parcel of land described as follows:

Beginning at a point on the west line of said NW1/4NE1/4 distant 920.6 feet south of the northwest corner thereof; thence North 57 degrees 50 minutes East 118.9 feet; thence North 32 degrees 10 minutes West 60.0 feet; thence South 57 degrees 50 minutes West 81.1 feet to a point in the said west line NW1/4NE1/4; thence south along said west line 70.9 feet to the Point of Beginning.

ATTACHMENT 4

☐
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| Search Criteria | | Tax Year | | Effective | | | |
|-----------------|-----------------|--|--|-----------------|--|---------------------------------------|--|
| Property No. | 031 23400000600 | <input checked="" type="radio"/> Use Start Dates | | Tax Year Date | | <input type="button" value="Clear"/> | |
| As of Date | 01/31/2005 | <input type="radio"/> Use End Dates | | Assessment Date | | <input type="button" value="Search"/> | |

| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
|---------|---------|--------|-------|--------|------------|---------|
|---------|---------|--------|-------|--------|------------|---------|

[illegible]

Help...

ATTACHMENT 5



10-8064
Page: 1 of 4
11/23/1998 11:50A
Klickitat Co.

Klickitat County Title Company

200

WHEN RECORDED MAIL TO:

Greg Colt Land Brokers, Inc.
34 State Street
Lyle, Washington 98635

REAL ESTATE EXCISE TAX
Ch. 11 Rev. Code 1981

26.50 has been paid
Paid 062534 Date NOV 23 1998

Klickitat County Treasurer
[Signature]
Deputy

W-24261

QUITCLAIM AND RELEASE OF INTEREST

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, a Delaware corporation, (formerly Burlington Northern Railroad Company), of 2650 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantor", for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, in hand paid, conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to GREG COLT LAND BROKERS, INC., a Washington corporation, of 34 State Street, Lyle, Washington 98635, hereinafter called "Grantee", all its right, title and interest, if any, in real estate, subject however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise, situated in the County of Klickitat, State of Washington, hereinafter called "Property", together with all after acquired title of grant or therein, more particularly described as follows:

A parcel of land situated in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, Township 3 North, Range 12 East, W. M., Klickitat County, Washington, described as follows, to-wit:

Beginning at a point on the South line of said Section 34 distant 42.60 chains (deed) West of the Southeast corner of said Section 34; thence North 21° 30' West, (deed) 70 links; thence North 20° 30' East to the intersection with a line drawn concentric with and distant 200.0 feet Northeasterly, as measured radially from The Burlington Northern and Santa Fe Railway Company's (formerly Spokane, Portland and Seattle Railway Company) Main Track centerline, as now located and constructed; thence Southeasterly along the last described concentric line to the East line of said SE $\frac{1}{4}$ SW $\frac{1}{4}$; thence South along said East line to the South quarter corner of said Section 34; thence West along the South line of said Section 34 to the Point of Beginning, EXCEPTING THEREFROM, that portion lying Southerly of a line drawn concentric with and distant 50.0 feet Northeasterly, as measured radially from said Main Track centerline, ALSO EXCEPTING THEREFROM, the right of way for State Highway No. 14.

Assessor's Property Tax Parcel Account Number: No tax serial numbers - Railroad right of way.
(Affects Title on 03-12-3400-0006/00)



1008064

Page: 2 of 4

11/23/1998 11:58A

Klickitat County Title Company

Klickitat Co.

Grantee has been allowed to make an inspection of the Property and has knowledge as to the past use of the Property. Based upon this inspection and knowledge, Grantee is aware of the condition of the Property and **GRANTEE ACKNOWLEDGES THAT GRANTEE IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY,** including the physical condition of the Property and any defects thereof, the presence of any hazardous substances, wastes or contaminants in, on or under the Property, the condition or existence of any of the above ground or underground structures or improvements in, on or under the Property, the condition of title to the Property, and the leases, easements or other agreements affecting the Property. Grantee is aware of the risk that hazardous substances and contaminants may be present on the Property, and indemnifies, holds harmless and hereby waives, releases and discharges forever Grantor from any and all present or future claims or demands, and any and all damages, loss, injury, liability, claims or costs, including fines, penalties and judgments, and attorney's fees, arising from or in any way related to the condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any hazardous substances or contaminants in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Grantor's remaining property or the operations or business of the Grantor on its remaining property to be in compliance with the requirements of any Environmental Law, (c) Losses for injury or death of any person, and (d) Losses arising under any Environmental Law enacted after transfer. The rights of Grantor under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any hazardous substances or contaminants on the Property.

The term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law.

BNSF 00952 Lyle, WA

2



1008064
Page: 3 of 4
11/23/1998 11:58A
Klickitat Co.

The term "Hazardous Substance" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

TO HAVE AND TO HOLD the Property, together with all the appurtenances thereunto belonging, unto the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the said Grantor caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the 11th day of November, 1998.

THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY

By: D. P. Schneider
D. P. Schneider
General Director Real Estate



ATTEST:

By: Margaret H. Aclin
Margaret H. Aclin
Assistant Secretary

BNSF 00952 Lyle, WA

3



1008064
Page: 4 of 4
11/23/1998 11:58a
Klickitat Co.

STATE OF TEXAS

§

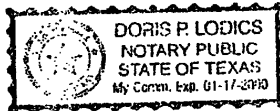
§ ss.

COUNTY OF TARRANT

§

On this 11 day of November, 1998, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared D. P. Schneider and Margaret R. Aclin, to me known to be the General Director Real Estate and Assistant Secretary, respectively, of THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.



Doris P. Lodics
Notary Public in and for the State of Texas

Residing at: Fort Worth, Texas

My appointment expires: 1-17-2000

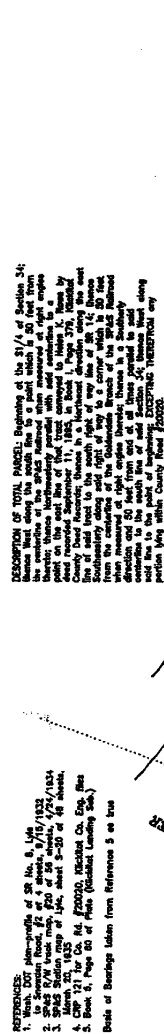
FORM APPROVED BY LAW

| | |
|-------------------|------------|
| APPROVED LEGAL | <u>JP</u> |
| APPROVED FORM | <u>BRJ</u> |
| APPROVED | |

BNSF 00952 Lyle, WA

4

Exhibit C
Attachment 5 – Page 5 of 5



ATTACHMENT 6



| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
|---------|---------|--------|-------|--------|------------|---------|
|---------|---------|--------|-------|--------|------------|---------|

Financial History... | Print Property Summary | Close | Help...

ATTACHMENT 7



RUTLEDGE HOTEL CO. LLC7

1038169

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06/17/2003 09:36A
Klickitat Co.

WHEN RECORDED MAIL TO:

Rutledge Hotel Co., LLC
P.O. Box 114
Lyle, Washington 98635

REAL ESTATE EXCISE TAX
Chapter 82.45 and Chapter 82.46, RCW

390.15 has been paid
069079A 12-3-23
Klickitat County Treasurer
By: [Signature] Deputy

QUITCLAIM DEED

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, a Delaware corporation, (formerly Burlington Northern Railroad Company), of 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantor", for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, in hand paid, conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **RUTLEDGE HOTEL COMPANY, LLC**, a Washington limited liability company, of P.O. Box 114, Lyle, Washington 98635, hereinafter called "Grantee", all its right, title and interest, if any, in real estate, subject however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise, situated in the County of Klickitat, State of Washington, hereinafter called "Property", together with all after acquired title of grantor therein, more particularly described as follows:

Part of Government Lot 2 of Section 3, Township 2 North, Range 12 East, and part of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 3 North, Range 12 East, W. M., all in Klickitat County, Washington, additional legal description is on page six (6) in Exhibit "A", consisting of one (1) page, attached hereto and made a part hereof.

EXCEPTING AND RESERVING, unto Grantor, its successors and assigns, all of the coal, oil, gas, casing-head gas and all ores and minerals of every kind and nature, including sand and gravel underlying the surface of the Property herein conveyed, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the Property herein conveyed, together with the right of access at all times to exercise said rights.

Assessor's Property Tax Parcel Account Number(s): No tax serial numbers - Railroad right of way. 02-12-0312-0098-00 and 02-12-03-12-0099

**1038169**Page: 2 of 6
06/17/2009 09:36A
Klickitat Co.

RUTLEDGE HOTEL CO. LLC7

Grantee has been allowed to make an inspection of the Property and has knowledge as to the past use of the Property. Based upon this inspection and knowledge, Grantee is aware of the condition of the Property and **GRANTEE ACKNOWLEDGES THAT GRANTEE IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY,** including the physical condition of the Property and any defects thereof, the presence of any hazardous substances, wastes or contaminants in, on or under the Property, the condition or existence of any of the above ground or underground structures or improvements in, on or under the Property, the condition of title to the Property, and the leases, easements or other agreements affecting the Property. Grantee is aware of the risk that hazardous substances and contaminants may be present on the Property, and indemnifies, holds harmless and hereby waives, releases and discharges forever Grantor from any and all present or future claims or demands, and any and all damages, loss, injury, liability, claims or costs, including fines, penalties and judgments, and attorney's fees, arising from or in any way related to the condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any hazardous substances or contaminants in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Grantor's remaining property or the operations or business of the Grantor on its remaining property to be in compliance with the requirements of any Environmental Law, (c) losses for injury or death of any person, and (d) losses arising under any Environmental Law enacted after transfer. The rights of Grantor under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any hazardous substances or contaminants on the Property.

The term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response,



RUTLEDGE HOTEL CO. LLC7

1038169

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Klickitat Co.

Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law.

The term "Hazardous Substance" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

TO HAVE AND TO HOLD the Property, together with all the appurtenances thereunto belonging, unto the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the said Grantor caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the 29th day of May, 2003.

THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY

By:

E. P. Schneider
General Director Real Estate

ATTEST:

By:

Patricia Zbichorski
Assistant Secretary





RUTLEDGE HOTEL CO. LLC7

1038169

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06/17/2003 09:36A
Klickitat Co.

ACCEPTED:

RUTLEDGE HOTEL COMPANY, LLC

By: James S. Rutledge
Name: JAMES S. RUTLEDGE
Title: MEMBER

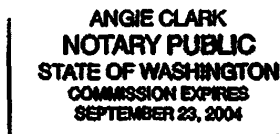
ATTEST:

By: Penny Rutledge
Name: Penny Rutledge
Title: member

STATE OF WASHINGTON §
§ ss.
COUNTY OF KLICKITAT §

On this 14th day of May, 2003, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared James S. Rutledge and Penny Rutledge, to me known to be the CEO member and President member respectively, of Rutledge Hotel Company, LLC, the company that accepted the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that they are authorized to accept said instrument for said company.

Witness my hand and official seal hereto affixed the day and year first above written.



Angie Clark

Notary Public in and for the State of WA

Residing at: White Salmon

My appointment expires: 09.23.04



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Page: 5 of 6
06/17/2003 09:36A
Klickitat Co.

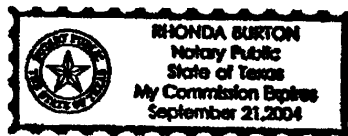
STATE OF TEXAS

§
§ ss.
§

COUNTY OF TARRANT

On this 29th day of May, 2003, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared D. P. Schneider and Patricia Zbichorski, to me known to be the General Director Real Estate and Assistant Secretary, respectively, of THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.



Rhonda Burton
Notary Public in and for the State of Texas

Residing at: Carrollton, Texas

My appointment expires: 9/21/2004

FORM APPROVED BY LAW

| | |
|-------------------|------------|
| APPROVED LEGAL | <u>FLB</u> |
| APPROVED FORM | <u>AM</u> |
| APPROVED | <u>EB</u> |

BNSF 03100 Lyle, WA

5

**1038169**Page: 6 of 6
06/17/2003 09:36A
Klickitat Co.

RUTLEDGE HOTEL CO. LLC7

EXHIBIT "A"

The Northeasterly 50.0 feet of that certain 100.0 foot wide strip of land described in Warranty Deed dated April 30, 1904 from Thomas Balfour to The Columbia River & Northern Railway Company filed for record May 4, 1904 in Vol. Q of Deeds on page 282 in and for Klickitat County, Washington, situated in Government Lot 2 of Section 3, Township 2 North, Range 12 East, and in the SW¼SW¼SE¼ of Section 34, Township 3 North, Range 12 East, W. M., all in Klickitat County, Washington, lying between the centerline of said 100.0 foot wide strip of land, hereinafter described as "Line A", and a line drawn parallel and concentric with and 50.0 feet normally distant Northeasterly from said "Line A", bounded on the North by the Southwesterly right of way line of State Route No. 14, and bounded on the Southeast by a line drawn at right angles to said "Line A" from a point on the Northeasterly boundary of said 100.0 foot wide strip of land which is 500.0 feet Southeasterly from the North line of said Section 3, as measured along said Northeasterly boundary, **EXCEPTING THEREFROM**, that portion of said 50.0 foot wide strip of land lying with 50.0 feet of The Burlington Northern and Santa Fe Railway Company's Main Track centerline, as now located and constructed upon, over and across said Government Lot 2.

ALSO,

A 20.0 foot wide strip of land situated in said Government Lot 2 of Section 3, Township 2 North, Range 12 East, W. M., Klickitat County, Washington, lying between two lines drawn parallel and concentric with and distant, respectively, 130.0 feet and 150.0 feet Northeasterly, as measured at right angles and radially from said hereinafter described "Line A", bounded on the North by a line drawn at right angles to said "Line A" from a point on the Northeasterly boundary of the hereinabove described 50.0 foot wide strip of land which is 500.0 feet Southeasterly from the North line of said Section 3, as measured along said Northeasterly boundary, and bounded on the South by a line drawn radially to said hereinafter described "Line A" from a point 810.0 feet Southeasterly from the North line of said Section 3, as measured along said hereinafter described "Line A".

"Line A" Description

Beginning at a point 2640 feet South 1012 feet East and 350 feet South of the Northwest corner of Section 2, Township 2 North, Range 12 East; thence North 63° 23' West a distance of 1057.3 feet to a point; thence following a curve of 603.8 feet radius a distance of 193.5 feet to a point; thence North 45° West a distance of 375.7 feet to a point; thence curving to the left and following a curve of 1146.3 feet radius a distance of 171.1 feet to a point; thence curving to the left and following a curve of 5729.6 feet radius a distance of 468.3 feet to a point; thence North 58° 09' West a distance of 945.1 feet to a point; thence curving to the right and following a curve of 1432.7 feet radius a distance of 876.7 feet to a point; thence North 23° 05' West a distance of 487.2 feet to a point; thence following a curve to the right of 1529.0 feet radius a distance of 160 feet to a point; thence curving to the right following a curve of 764.5 feet radius a distance of 933.8 feet to a point and there terminating.

ATTACHMENT 8



1048004
Page: 1 of 2
08/25/2004 04:15P
Klickitat Co.

AFTER RECORDING MAIL TO:

Name Rutledge Hotel Co., LLC

Address P.O. Box 114

City, State, Zip LYLE, WA 98635

Filed for Record at Request of:

REAL ESTATE EXCISE TAX
Chapter 82.45 and Chapter 82.46, RCW

\$ 200 has been paid

Receipt # 070985 8-25-04

Klickitat County Treasurer

By [Signature]

QUIT CLAIM DEED

THE GRANTOR(S) RUTLEDGE HOTEL CO., LLC

for and in consideration of TEN DOLLARS AND NO/100

conveys and quit claims to WESTERN ESTATES, INC.

the following described real estate, situated in the County of Klickitat, state of Washington,

together with all after acquired title of the grantor(s) therein:

VACANT LAND

SEE ATTACHED

Assessor's Property Tax Parcel/Account Number: TL 97/ACCT. 02-12-0312-0097-00

Dated: 08/19/2004

RUTLEDGE HOTEL CO. LLC

Penny H. Rutledge

[Signature]

STATE OF Washington

COUNTY OF Klickitat

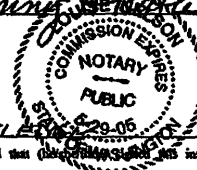
I certify that I know or have satisfactory evidence that Penny H. Rutledge (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she/it) executed this instrument and acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 8/19/04

[Signature]

Notary Public in and for the state of WASHINGTON

My appointment expires: 5/29/05



LPB-12(i) 7/97

DESCRIPTION

1048004
Page: 2 of 2
08/28/2004 04:15P
Klickitat Co.



A strip of land situated in Government Lot 2 of Section 3, Township 2 North, Range 12 East, W. M., and in the SW¼SE¼ of Section 34, Township 3 North, Range 12 East, W. M., Klickitat County, Washington, lying contiguous to and Westerly of that certain 50 foot wide strip of land described in Quitclaim Deed from The Burlington Northern and Santa Fe Railway Company to Rutledge Hotel Company, LLC recorded June 17, 2003 as Document No. 1038169 in and for said County, more particularly described as follows:

Commencing at the quarter corner common to said Sections 3 and 34; thence South 86° 51' 03" East, along the South line of said Section 34 a distance of 138.68 feet to the True Point of Beginning; thence South 13° 08' 46" East, 40.78 feet; thence South 25° 11' 24" East, 164.59 feet to the Westerly boundary of said "Rutledge Hotel Company" property, described as "Line A" in Document No. 1038169; thence Northwesterly along said Westerly boundary, and the hereinafter described "Line A", a distance of 239.71 feet, more or less, to the Southerly right of way line of State Route 14; thence Westerly along said Southerly right of way line to a point being North 13° 08' 46" West from the True Point of Beginning; thence South 13° 08' 46" East, 71.66 feet to the True Point of Beginning.

"Line A" Description

Beginning at a point 2640 feet South 1012 feet East and 350 feet South of the Northwest corner of Section 2, Township 2 North, Range 12 East; thence North 63° 23' West a distance of 1057.3 feet to a point; thence following a curve of 603.8 feet radius a distance of 193.5 feet to a point; thence North 45° West a distance of 375.7 feet to a point; thence curving to the left and following a curve of 1146.3 feet radius a distance of 171.1 feet to a point; thence curving to the left and following a curve of 5729.6 feet radius a distance of 468.3 feet to a point; thence North 58° 09' West a distance of 945.1 feet to a point; thence curving to the right and following a curve of 1432.7 feet radius a distance of 876.7 feet to a point; thence North 23° 05' West a distance of 487.2 feet to a point; thence following a curve to the right of 1529.0 feet radius a distance of 160 feet to a point; thence curving to the right following a curve of 764.5 feet radius a distance of 933.8 feet to a point and there terminating.

ATTACHMENT 9



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| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
|---------|---------|--------|-------|--------|------------|---------|
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Financial History... Print Property Summary Close Help...

ATTACHMENT 10



1044967
Page: 1 of 2
04/02/2004 02:14P
Klickitat Co.

AFTER RECORDING RETURN TO:

WESTERN ESTATES INC
2149 W. CASCADE #208
HOOD RIVER, OR 97031

REAL ESTATE EXCISE TAX
Chapter 82.45 and Chapter 82.46, RCW

\$2,601.00 has been paid
070328 4-02-04
Klickitat County Treasurer
By: *[Signature]* Deputy

Filed for at the request of:
AMERITITLE

Escrow No. WS17114

STATUTORY WARRANTY DEED

Grantor(s): RUTLEDGE HOTEL CO LLC
Grantee(s): WESTERN ESTATES, INC
Abbreviated Legal: Ptn. Gov. Lot 2, Sec. 3, Twn. 2 N., R. 12 EWM; Ptn. Lots 7 &
Additional Legal on Page:
Assessor's Tax Parcel Number(s): 02-12-0358-0707/00, 02-12-0358-0307/00, 02-12-0312-0009/00 and
02-12-0312-0098/00

THE GRANTOR RUTLEDGE HOTEL CO LLC for and in consideration of TEN DOLLARS (\$10.00)
AND OTHER GOOD AND VALUABLE CONSIDERATION in hand paid, conveys and warrants to WESTERN
ESTATES, INC, a Washington limited liability company the following described real estate, situated in the
County of KLINKITAT, State of Washington: * Corporation *[Signature]*

FOR LEGAL DESCRIPTION, SEE EXHIBIT "A" ATTACHED HERETO—

This conveyance is subject to all those items of record, if any, as of the date of this deed and those shown
below, if any:

Dated this 31 *March* day of April, 2004.

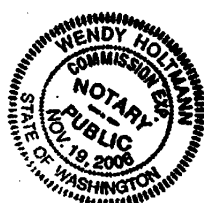
RUTLEDGE HOTEL CO LLC

BY: *[Signature: Penny Rutledge]*
PENNY RUTLEDGE, MEMBER

STATE OF WASHINGTON
COUNTY OF KLINKITAT

I certify that I know or have satisfactory evidence that PENNY RUTLEDGE is the person who appeared before me,
and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to
execute the instrument and acknowledged it as the MEMBER of RUTLEDGE HOTEL CO LLC to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this 31 day of March, 2004.



[Signature: Wendy Holman]
Notary Public in and for the State of Washington
Residing at White Salmon WA 98672
My appointment expires: 11/19/06

RUTLEDGE HOTEL - WESTERN ESTATES
SWD PAGE 1 OF 2



1044967

Page: 2 of 2
04/02/2004 02:14P
Klickitat Co.

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1:

That portion of Government Lot 2, Section 3, Township 2 North, Range 12 East, of the Willamette Meridian, in the County of Klickitat and State of Washington, lying between the right of way of the Spokane, Portland and Seattle Railway Company and Southwesterly boundary line of First Street.

ALSO KNOWN AS Lyle Avenue as platted in First Addition to Lyle.

EXCEPT Right of Way of State Road No. 8. ALSO THAT PORTION of Lots 7 and 8, Block 3 and Lots 7 through 12, inclusive, Block 7, FIRST ADDITION TO LYLE, according to the Plat thereof, recorded in Book 3, Page 1, Klickitat County Plat Records, lying Southwesterly of State Road No. 8.

TOGETHER WITH those portions of vacated Lyle Avenue which upon vacation, attached thereto by operation of law.

PARCEL 2:

The Northeasterly 50.0 feet of that certain 100.0 foot wide strip of land described in Warranty Deed dated April 30, 1904 from Thomas Balfour to The Columbia River & Northern Railway Company, recorded May 4, 1904 in Book Q, Page 282, Klickitat County Deed Records, situated in Government Lot 2 of Section 3, Township 2 North, Range 12 East, of the Willamette Meridian and in the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 34, Township 3 North, Range 12 East, of the Willamette Meridian, in the County of Klickitat and State of Washington, lying between the center line of said 100.0 foot wide strip of land, hereinafter described as "Line A", and a line drawn parallel and concentric with and 50.0 feet normally distant Northeasterly from said "Line A", bounded on the North by the Southwesterly right of way line of State Route No. 14 and bounded on the Southeast by a line drawn at right angles to said "Line A" from a point on the Northeasterly boundary of said 100.0 foot wide strip of land which is 500.0 feet Southeasterly from the North line of said Section 3, as measured along said Northeasterly boundary, EXCEPTING THEREFROM that portion of said 50.0 foot wide strip of land lying with 50.0 feet of The Burlington Northern and Santa Fe Railway Company's main track center line, as now located and constructed upon, over and across said Government Lot 2.

"LINE A" DESCRIPTION:

Beginning at a point 2,640 feet South and 1,012 feet East and 350 feet South of the Northwest corner of Section 2, Township 2 North, Range 12 East, of the Willamette Meridian, in the County of Klickitat and State of Washington; thence North 63 degrees 23' West, a distance of 1,057.3 feet, to a point; thence following a curve of 603.8 feet radius, a distance of 193.5 feet to a point; thence North 45 degrees West a distance of 375.7 feet to a point; thence curving to the left and following a curve of 1,146.3 feet radius, a distance of 171.1 feet to a point; thence curving to the left and following a curve of 5,729.6 feet radius, a distance of 468.3 feet to a point; thence North 58 degrees 09' West, a distance of 945.1 feet to a point; thence curving to the right and following a curve of 1,432.7 feet radius, a distance of 876.7 feet to a point; thence North 23 degrees 05' West, a distance of 487.2 feet to a point; thence following a curve to the right of 1,529.0 feet radius, a distance of 160 feet to a point; thence curving to the right following a curve of 764.5 feet radius, a distance of 933.8 feet to a point and there terminating.

RUTLEDGE HOTEL - WESTERN ESTATES
SWD PAGE 2 OF 2

ATTACHMENT 11



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| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
|---------|---------|--------|-------|--------|------------|---------|
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Financial History... | Print Property Summary | Close | Help...

ATTACHMENT 12

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| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
|---------|---------|--------|-------|--------|------------|---------|
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Financial History... Print Property Summary Close Help...

ATTACHMENT 13

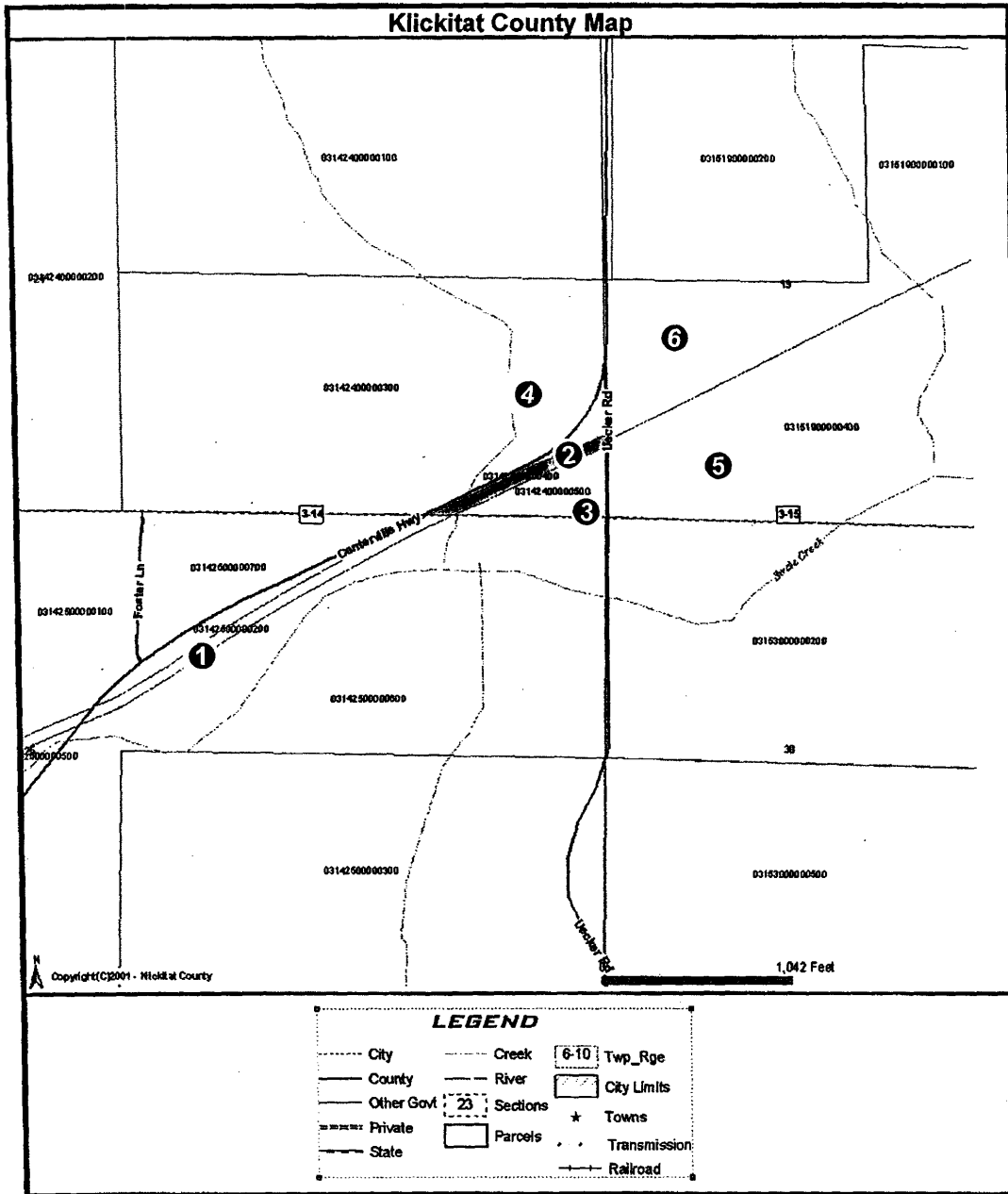


Exhibit C
Attachment 13 – Page 1 of 1

ATTACHMENT 14

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File Edit Tools Work Areas View Help



| Search Criteria | | | |
|-----------------|-----------------|--|---|
| Property No. | 031 42500000200 | Tax Year | Effective |
| As of Date | 02/02/2005 | <input type="radio"/> Use Start Dates <input type="radio"/> Use End Dates | Tax Year Date Assessment Date |
| | | | <input type="button" value="Clear"/> <input type="button" value="Search"/> |

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Financial History... | Print Property Summary | Close | Help...

start 3.3 Ascend Public ... 2.42 Property Inq... 8:06 AM

ATTACHMENT 15

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| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
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Financial History... | Print Property Summary | Close | Help...

ATTACHMENT 16

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|-----------------|--|--|--|---|-----------------------|
| Search Criteria | | Tax Year <input type="text"/> <input checked="" type="radio"/> Use Start Dates <input type="radio"/> Use End Dates | | Effective Tax Year Date <input type="text"/> Assessment Date <input type="text"/> | Clear <hr/> Search |
| Property No. | <input type="text" value="031 42400000300"/> | | | | |
| As of Date | <input type="text" value="02/02/2005"/> | | | | |

| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
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[illegible]

Financial History... | Print Property Summary | Close | Help...

ATTACHMENT 17

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| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
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Financial History... | Print Property Summary | Close | Help...

ATTACHMENT 18



| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
|---------|---------|--------|-------|--------|------------|---------|
|---------|---------|--------|-------|--------|------------|---------|

Financial History... | Print Property Summary | Close | Help...

ATTACHMENT 19



| Summary | Parties | Values | Taxes | Events | 1 Receipts | 2 Other |
|---------|---------|--------|-------|--------|------------|---------|
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Financial History... | Print Property Summary | Close | Help...

EXHIBIT D

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB-6; SUB. NOS. 346X & 335X

**BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT EXEMPTION –
IN KLIKITAT COUNTY, WA, (Sub-No. 346X)
and,
BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT EXEMPTION –
BETWEEN KLIKITAT AND GOLDENDALE, WA,
(Sub-No. 335X)**

DECLARATION OF CURT DREYER

I, Curt Dreyer, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am of lawful age, and am qualified and authorized to file this Declaration, Executed on February 3, 2005

1. Attachment 1 hereto is a true and correct copy of a June 12, 2002, letter sent by me, as the Planning Director for the Klickitat County Planning Department, to the Washington State Parks and Recreation Commission.

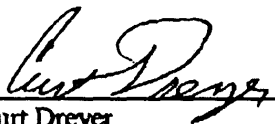

Curt Dreyer

Exhibit D

ATTACHMENT 1



KLICKITAT COUNTY PLANNING DEPARTMENT

228 W. Main St., MS: CH-17, Goldendale, Washington 98620
VOICE: 509 773-5703 or 1 800 765-7239
FAX: 509 773-6206

June 12, 2002

Washington State Parks and Recreation Commission
P.O. Box 42650
Olympia, WA 98504-2650

RE: Klickitat Rails to Trails

Dear Commission members:

The Klickitat County Board of Commissioners has requested me to reiterate their opposition to conversion of the Klickitat rail corridor to a public trail.

In a June 24, 1998 letter to Robert Williams, then-Regional Forester of the Pacific Northwest Region, (attached) the county commissioners expressed frustration with the Forest Service's persistent dodging of the issues related to a conversion from rail to trail before and after issuance of an EA (Environmental Assessment). The EA estimates total use of the rail-trail to be about 80,000 people per year, with a majority using the rail corridor in summer months, which raises a number of issues. The most important issues are:

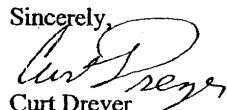
- Fire. The Klickitat River canyon area becomes very dry in late summer and is highly susceptible to wild fires. Per the EA, response times range from about 45 minutes to 1 and ½ hours. A major fire occurred in the Klickitat River Canyon about 1992 – fortunately, most residents are conscious of fire dangers and there have been few fires since. Increased use by an estimated total of 80,000 people per year (primarily during the fire season) will undoubtedly result in annual fires along the rail corridor; the limited access to many parts of the rail-trail corridor may translate into loss of property, timber and lives.
- Emergency Response. With 80,000 people using a narrow strip of land that is literally the "backyard" to many landowners, due to the narrowness of the river valley, conflicts will undoubtedly occur. Law enforcement/response to trespass, vandalism, unleashed dogs, people/cattle conflicts, littering, accidents, illegal camping, etc. will fall to the Klickitat County Sheriff's Department which would need to increase staffing to respond to all of the calls.

Other considerations include:

- Cultural resources, which occur along much of the rail-trail corridor, have not been adequately addressed (see attached minutes, with comments by Harkenrider, USFS).
- In some areas of the former rail corridor, the river has completely washed away rail improvements. The 1996 flood damages were estimated by FEMA to be \$9,165,274 (see attached estimate); the repair would certainly cost more by today's dollars; additionally other damages have occurred in the ensuing years.
- The rail corridor has not been surveyed – in many places, the rail line is physically outside the legal easements due to many years of repair following annual flooding. Thus, the rail-trail may require yet undetermined construction costs.
- The Klickitat River, above Pitt (at River mile 11), and the entire length of Swale Creek are not within the Wild and Scenic River Corridor. This fact may hinder the ability of the USFS to assume management responsibilities of the entire 31 miles.
- Swale Creek is the site of major improvements for fish habitat that have obliterated former signs of rail improvements – rebuilding of a rail-trail may require a location outside of the river bottom.
- Local residents do care about the aesthetics of the Klickitat River. Invariably, gum wrappers, Kleenex, sandwich bags, and plenty of other items are accidentally, or carelessly, would be dropped by trail users, to be picked up by wind gusts and deposited in the Klickitat River. Already, one can find abundant trash in the River, left by those rafting or boating on the River.
- Much of the area is open range for cattle. Open range is not compatible with trail use, unleashed dogs, and small children.

There are reasons why the Forest Service has not moved forward in planning of a Klickitat rail-trail project, i.e. unresolved issues. We hope you will consider the many unresolved issues and reach a decision to return the property to the Rails-to-Trails Conservancy and avoid further expenses to the taxpayers of Washington State.

Sincerely,


Curt Dreyer
Planning Director

Enc: 6/24/98 correspondence to Regional Forester, 1996 FEMA estimate of repairs,
1/14/01 Commissioner minutes